United Nations CAT/C/TUR/4

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General
26 January 2015

Original: English

Committee against Torture

Consideration of reports submitted by States parties under article 19 of the Convention pursuant to the optional reporting procedure

Fourth periodic reports of States parties due in 2014

Turkey*, **, ***

[Date received: 22 October 2014]

* The third periodic report of Turkey is contained in document CAT/C/TUR/3; it was considered by the Committee at its 959th and 960th meetings, held on 3 and 4 November 2010 (CAT/C/SR.959 and 960). For its consideration, see the Committee's concluding observations (CAT/C/TUR/CO/3).

** The present document is being issued without formal editing.

*** The annexes to the present report may be consulted in the files of the secretariat, in the language of submission only.

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Replies of the Government of Turkey to the list of issues prepared by the Committee against Torture (CAT/C/TUR/Q/4)

Article 2

Question 1: In the light of the concern expressed by the Committee in its previous concluding observations (para. 7) about allegations of torture or ill-treatment in unofficial places of detention, please provide information on any new measures adopted by the State party to prevent, prosecute and punish such conduct during the reporting period. Please provide data on investigations undertaken into allegations of police abuse outside police stations and indicate how many resulted in prosecution and conviction, including any disciplinary or criminal sentences. Please provide information on any ongoing investigations or prosecutions concerning the case of Ahmet Koca, who has alleged that he was beaten by several police officers in the Fatih district of İstanbul in June 2012, both outdoors and while inside a police vehicle, and whose allegations appear to be partially corroborated by independent video footage.

1. Statistics relating to all investigations carried out, all cases instituted, decisions of non-prosecution and other types of judgments delivered from the beginning of 2013 to 28 March 2014 in respect of complaints of torture, ill-treatment (Articles 94 and 95 of the Penal Code), and excessive use of force (Article 256) by law enforcement officials are provided in the tables in annex 1.

2. Concerning the case of Ahmet Koca, a criminal case has been filed by the İstanbul Chief Public Prosecutor's Office with İstanbul 2nd Assize Court on allegations that police officers A.D, M.M.G, A.E, M.K, S.A.A, A.Y, C.A.A, A.G, F.K, M.A and A.Ö. inflicted violence on Ahmet Koca on 18 June 2012. The officers were charged with torture under Article 94 of the Penal Code. The case is pending.

3. Concerning the incident, İstanbul Provincial Police Disciplinary Board rendered the following decision: The promotion of four officers was suspended for long term (16 months), no penalties were imposed on six officers, one day salary reduction was imposed on one officer as he failed to perform supervisory duties and one officer was reprimanded.

4. Moreover, the file of one police officer was referred to the High Disciplinary Board of the General Directorate of Security, so that a heavier disciplinary penalty could be imposed. As a result, the officer concerned was dismissed from his post for "inflicting torture on employees or persons who visit or were brought to the security premises".

Question 2: Please indicate whether, as recommended by the Committee in its concluding observations (para. 13), the State party has reviewed the cases of individuals convicted under articles 265 ("using violence or threats against a public official"), 125 ("defaming the police"), 301 ("insulting Turkishness") and 277 ("attempting to influence the judicial process") of the Penal Code during the previous reporting period. Specifically, please clarify whether any of these convictions were the result of counter-charges brought against victims of alleged ill-treatment or their families by police as a means to intimidate them from reporting the alleged abuse. Please indicate whether any such convictions have been overturned as a result of such a finding and whether any new investigations into allegations of torture or ill-treatment by the police have been opened as a result. Please also indicate whether any public officials have been subjected to disciplinary or criminal penalties for bringing or threatening counter-charges against alleged victims or their family members during the reporting period. Please comment on the

case of Fevziye Cengiz, who was reportedly charged with "injuring and insulting a civil servant" and threatened with six years' imprisonment after she accused police in İzmir of abusing her in custody in July 2011.

5. No specific information is available with regard to the cases referred to in the question. However it is worth noting that Article 301 of the Penal Code was amended in 2008 in order to overcome certain difficulties that were faced in its implementation. As a result, there has been a substantial decrease (97 %) in the number of cases opened.

6. As to the allegations that Ms. Fevziye Cengiz was beaten by the police after having been taken into custody and brought to a police station as she failed to present her identity card:

- In terms of judicial proceedings; a criminal case is pending before İzmir 6th Assize Court in respect of four officers;
- In terms of disciplinary proceedings; in respect of the two police officers who were found to be perpetrators, a suspension of promotion for a period of 12 months was imposed under the Disciplinary Statute, whereas no sanctions were determined in respect of four officers. As an administrative measure, two officers were appointed to offices outside the province of İzmir.

7. Concerning the issue, an Inquiry Report on İzmir Police Stations has been drawn up by the Human Rights Inquiry Commission of the Turkish Grand National Assembly (TGNA). While the speedy conclusion of the disciplinary proceedings and punishment of the perpetrators were appreciated in the report, it has been stated that the disciplinary sanction imposed was insufficient as regards the severity of the incident and far from alleviating public concerns, which showed that amendments should be made to the disciplinary statute in light of human rights principles. It has also been stated that the existence of cameras in police stations was an effective method as regards preventive measures and for the identification of perpetrators.

Question 3: Please provide data on any cases since the last review in which law enforcement personnel have been subject to disciplinary or criminal penalties for excessive use of force or ill-treatment of demonstrators. In light of the Committee's previous concluding observations (para. 13), please indicate measures taken to ensure that domestic laws, rules of engagement and standard operating procedures relating to public order and crowd control are fully in line with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and in particular that firearms may be used lethally only when strictly unavoidable in order to protect life and to introduce a monitoring system on the implementation of the Law on the Duties and Powers of the Police (Law No. 2559) to prevent its arbitrary use. Please provide further detail on the contents of the "Guidelines for Personnel in Charge of Riot Control" issued in November 2011 and describe measures taken to monitor their implementation. Please also comment on the status of any investigation of the police response to a demonstration on 31 May 2011, in Hopa, in which police allegedly beat protesters during their dispersal of the demonstration and in detention, as well as the police response to a demonstration in Ankara against the violence in Hopa. Please comment on any investigation into the reported beating of 19 students from primary and high schools in Mardin by police following a student protest on 12 October 2011.

8. Law enforcement officers resort to their power to use force pursuant to Article 16 of the Law on the Duties and Powers of the Police which is in conformity with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the Directive on the Procedure and Principles to be Followed by Law Enforcement Officials

Assigned in Civil Disturbances. In this context, the main objective in the use of force and arms is to ensure public order, prevent instantaneous and/or potential crimes, arrest the perpetrators of violence or remove a danger that threatens public or individual security. The authority to use firearms is considered as a last resort, and the "principle of proportionality" which is a criterion enshrined in the Constitution for lawful restriction of rights and the principles of "gradualness and proportionality" are duly observed.

9. Security forces display the necessary care and understanding in social events. They pay utmost attention to intervene gradually and proportionately in case of repeated and aggressive violations despite clear warnings by the security forces for protests that become contrary to law, disturb public order, harm people and the environment, involve attacks on other people's fundamental rights and freedoms and do not pursue a peaceful goal. The decision to use force is taken when law enforcement officials are absolutely obliged to use force. The nature and extent of the force are determined in proportion with the level of the resistance and are gradually raised depending on the resistance or aggression the police is confronted with. All personnel on duty are duly instructed to follow the law to its letter.

10. All allegations of wrongdoings by law enforcement personnel are investigated thoroughly and duly.

11. Information provided by the General Directorate of Security, relating to law enforcement personnel who have been subject to judicial and administrative proceedings under Articles 256, 94 and 95, is submitted under the replies to question 25.

12. Statistical data submitted by the Ministry of Justice is provided in annex 1.

13. As to the allegations that law enforcement officers exceeded their power to use force and that they used disproportionate force during the incidents that occurred in Hopa, Artvin.

14. In terms of judicial proceedings; the Governorship of Artvin denied authorization for investigation on 4 October 2012 in respect of 59 law enforcement officials who allegedly "exceeded their powers while using force, used disproportionate force and teargas grenades in a senseless way". However, this decision was quashed by Trabzon Regional Administrative Court on 29 January 2013 and the case was remitted to Hopa Public Prosecutor's Office.

15. On 16 June 2011, the Ministry of the Interior granted authorization for carrying out an investigation in respect of three officials on the charge of professional misconduct. Two officials appealed to the decision and the Council of State quashed the decision in respect of them on 26 January 2012. A criminal case was initiated before Hopa Magistrates' Court in respect of one official, who was charged with professional misconduct on 15 November 2012. The trial is pending.

16. In terms of disciplinary proceedings; three officials were reprimanded and no disciplinary action was taken in respect of one official.

17. With a view to preventing the recurrence of such incidents, a total of 214 officials serving in Artvin have been trained since 2011 on the use of force and personal safety. Moreover, during all assemblies and demonstration marches in Artvin, a crisis management center is set up at the premises of the provincial security directorate, presided by the Deputy Governor of Artvin and with the participation of one official appointed by the Provincial Deputy Security Director and the Provincial Gendarmerie Commander. The center is in charge of the live monitoring of assemblies and demonstration marches and making prompt interventions.

18. Concerning the incidents in Ankara, on 31 May 2011, persons affiliated to various illegal groups gathered in Ankara, protesting the incidents in Hopa, Artvin. The group, organized by certain terrorist organizations, provoked the events by marching toward the

provincial office of the AK Party. They covered their faces with clothing so as to hide their identity and resorted to organized violence by blocking main roads and throwing stones, sticks, bottles, etc. at the security forces. Their actions were aimed at the destruction of public order and authority and created fear and panic among people.

19. In order to put an end to attacks by such groups and as per the Law on the Duties and Powers of the Police, the Law on Assembly and Demonstration Marches and the Code of Criminal Procedure and other relevant statutes, the necessary actions were carried out on the instructions of public prosecutors.

20. During the illegal and violent demonstrations in Ankara, officials from the provincial security directorate made sure that the necessary announcements, warnings, communications and negotiations were made so as to stop and prevent the recurrence of any incidents, to maintain public order and safety, to arrest offenders and to protect the rights and freedoms of others. The officials made proportionate and lawful interventions where strictly necessary in accordance with the applicable legal provisions.

21. Persons taken into custody during demonstrations violating the Law on Assembly and Demonstration Marches were firstly brought to the Ankara Security Directorate. Following a body search and drawing up of entry reports, the custody procedure started. Custody procedures were completed by placing the persons in detention facilities which are compatible with the standards set forth by international conventions to which Turkey is a party.

22. The prosecution of the suspects, filed by the Ankara Chief Public Prosecutor's Office, was examined by the Ankara 24th Criminal Court of First Instance and the case resumed before the Ankara 11th Assize Court. The Assize Court ruled on 25 February 2014 that, on the charge of "committing crimes on behalf of illegal organizations without being a member" (Articles 314 § 3 and 220 § 6), it was not found established that the defendants committed the offenses and were acquitted pursuant to Article 223 § 2-e of the Code of Criminal Procedure. As to the charge of "making propaganda of a terrorist organization" under Article 7 § 2 of the Law on Combating Terrorism, the prosecution of the defendants was suspended and a decision of non-jurisdiction was delivered and the case was separated from the file as per Law No. 6352, which entered into force after the commission of the offense.

23. As a result of the judicial proceedings in respect of law enforcement officials concerning the incidents that occurred in Ankara, a decision of "non-prosecution" was delivered by the Ankara Chief Public Prosecutor's Office in respect of one official who allegedly committed "misconduct, verbal abuse and threats". Another investigation is under way before the Ankara Chief Public Prosecutor's Office, concerning allegations that "a number of law enforcement officers ill-treated persons while apprehension, kept them in police vehicles for a long time and delayed their transfer to the police stations where they would be taken into custody". In terms of disciplinary proceedings, cases were discontinued in respect of 16 officials and it was decided that "no penalties shall be determined" in respect of 202 officials.

24. No concrete evidence could be obtained so far concerning allegations that persons taken into custody during the incident in Hopa and the demonstrations made in Ankara protesting the incident in Hopa, were subjected to ill-treatment.

25. Regular training activities are provided for riot control officers in accordance with Article 41 of the Regulation on the Agile Forces Department.

26. As to the allegations relating to the incidents that occurred in Mardin, an administrative investigation was carried out, whereby the official, who had been serving at Mardin Security Directorate, was appointed to Antalya Security Directorate and was

imposed the penalty of suspension of promotion for a period of six months for "displaying acts and conduct contrary to the sense of dignity and trust required by the official position while on duty". The sanctioned official appealed against the administrative measure at Antalya 2nd Administrative Court, which was rejected by that court on 18 July 2013.

27. In terms of judicial proceedings, an investigation has been launched by Nusaybin Chief Public Prosecutor's Office, which is pending without a final judgment on the matter.

Question 4: Please provide updated information on measures taken by the State party to prevent, investigate, prosecute and punish incidents of torture and ill-treatment in prisons. Please provide information on the status or outcome of any investigations into such conduct during the reporting period; indicate whether any perpetrators were prosecuted and convicted, the charges applied, and any sanctions handed down, and provide information on redress provided to victims, including the amount of compensation awarded. Please specifically address:

(a) Investigations of allegations of ill-treatment, including rape and beatings, of at least 25 minors at Pozanti Prison made by the Human Rights Association and Human Rights Foundation in 2011, and any measures to prosecute the perpetrators;

(b) Measures to ensure accountability of perpetrators of rape, sexual violence, and other acts of torture and ill-treatment of women deprived of their liberty by or with the consent or acquiescence of public officials, in light of the Committee's previous concluding observations (para. 19);

(c) Measures to hold accountable officials at Kalkandere Prison in Rize and Tekirdağ prison following allegations of abuse of inmates.

28. Significant amendments have been made to criminal execution legislation since 2005. Within the framework of harmonization of domestic legislation with the European Union (EU), and in accordance with the policy of "zero tolerance towards torture", the necessary legal amendments have been made for the prevention of torture. Supervisory and judicial mechanisms have been introduced. In this context, prisons are monitored periodically and as the need arises by NGOs and other parliamentary and international monitoring mechanisms.

29. Within the context of administrative monitoring, prisons are monitored by inspectors from the Ministry of Justice, controllers and other officers from the General Directorate of Prisons and Detention Centers, chief public prosecutors and public prosecutors in charge of prisons. The elimination of any shortcomings found during their visits is followed up by the General Directorate of Prisons and Detention Centers of the Ministry of Justice.

30. Within the context of judicial monitoring, decisions by administrations of establishments are monitored by prison enforcement judges, who perform their duties pursuant to the Law on Prison Enforcement Judges, enacted on 16 May 2001. Remand and sentenced inmates may file complaints to the enforcement judge, on issues relating to sentence execution or conditions of detention. They may also appeal the decisions of the judge before the competent assize court. Thus, all actions and activities by establishments go through judicial monitoring.

31. A total of 136 monitoring boards established by the "Law on Prison and Detention Center Monitoring Boards" are tasked with visiting and monitoring, at least once every two months, the institutions they are in charge of. The boards shall draw up reports and submit them to the relevant chief public prosecutor, the Ministry of Justice, the Human Rights Inquiry Commission of the TGNA and to the prison enforcement judge, if any complaints fall within the ambit of the latter.

32. Moreover, provincial and district human rights boards, which are composed of NGO members in provinces/districts, may also visit and monitor conditions in prisons.

33. The Ombudsman's Institution and Turkish Human Rights Institution may also carry out on-site observations upon receiving complaints from prisons, without obtaining prior permission.

34. Within the context of parliamentary monitoring, the president and members of the Human Rights Inquiry Commission and other inquiry commissions of the TGNA may visit prison establishments and carry out inquiry and monitoring activities.

35. In addition, prisons are visited and monitored by international treaty bodies such as the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the United Nations Subcommittee on Prevention of Torture and the Working Group on Arbitrary Detention.

36. With a view to preventing incidents of ill-treatment in prisons and eliminating such causes of complaints, Articles 94 (Torture), 95 (Aggravated Torture on Account of its Consequences) and 96 (Torment) of the Penal Code have been amended to introduce liberty-restricting penalties ranging from three years to aggravated life imprisonment for these offenses.

37. A table showing judicial and administrative proceedings in relation to allegations of torture and ill-treatment in prisons by prison officers from 2009 to 2014 is provided in annex 2.

38. Fundamental amendments have been brought to military disciplinary statutes as well, in order to preclude potential incidents of ill-treatment. In this context, the Disciplinary Law of the Turkish Armed Forces was put in force on 16 February 2013. Accordingly:

(a) Peacetime activities of disciplinary courts have been discontinued. Instead, disciplinary boards shall operate in peacetime;

(b) Except for a number of cases of indiscipline that may occur on ships out of Turkish territorial waters, the practice of chamber arrest in the military has been abolished;

(c) Disciplinary prisons shall be closed down in peacetime;

(d) Article 169 of the Military Penal Code, which allowed a superior or chief military officer to order provisional detention without the order of a judge, has been revoked.

39. With an amendment on 19 June 2010 to Article 244 of the Law on the Establishment and Trial Procedures of Military Courts, a decision of placement in solitary confinement now has to be delivered following a hearing and the defense statement of the convict or detainee shall be taken in the presence or through his lawyer. The detainee is now able to appeal against this decision before a higher military court.

40. Pursuant to an amendment on 22 November 2010 to Article 94 of the Regulation on the Administration of Military Prisons and Detention Centers and the Execution of Sentences, the following provisions have been introduced:

(a) The meeting of the convict or detainee placed in solitary confinement with his spouse, children, mother, father, siblings, mother-in-law, father-in-law, legal guardian and administrator, competent authorities and lawyer shall not be prevented.

(b) During the execution of the penalty of solitary confinement, the inmate shall always be allowed to get outdoor exercise for one hour per day, to read books and to exchange letters.

(c) Prisoner uniforms are discontinued and issues relating to outdoor exercise, communication with the outside world, the right to education and training, open/closed visits and the procedure of imposing disciplinary penalties have been made compatible with the legal provisions governing non-military prisons.

41. Only 37 cases out of 1,477 applications in the course of last four years until 12 November 2013 to the Board of Civil Administration Inspection of the Ministry of the Interior were found to be sufficiently serious to appoint an inspector and were subject to investigations. Statistics relating to examinations, preliminary and disciplinary investigations through recent years are as follows:

As a result of disciplinary investigations in 2009:

42. Three law enforcement officers were imposed the penalty of "suspension of promotion for 12 months", one officer was imposed "suspension of promotion for four months", two officers were imposed "three days' salary deduction".

As a result of disciplinary investigations in 2010:

43. Two law enforcement officers were imposed the penalty of "suspension of promotion for six months", one officer was imposed "suspension of promotion for 24 months", one officer was dismissed from post, and no sanctions were required in respect of one officer.

As a result of disciplinary investigations in 2011:

44. One law enforcement officer was imposed the penalty of "suspension of promotion for 12 months" and one officer was imposed "suspension of promotion for six months".

As a result of disciplinary investigations in 2012:

45. Two law enforcement officers were imposed the penalty of "suspension of promotion for 12 months", no sanctions were required in respect of three officers, investigation reports were drawn up in respect of eight officers, disciplinary reports were drawn up in respect of eight officers and no sanctions were required in respect of nine officers.

46. Concerning the events that occurred in the Uludere district of Şırnak, an examination report was drawn up and taken into consideration as a confidential report.

As a result of disciplinary investigations in 2013:

47. One law enforcement officer was imposed the penalty of "appointment to another unit", one officer was imposed "suspension of promotion", eight officers were imposed "salary deduction" and 12 officers were reprimanded. No sanctions were required in respect of the 64 officers, investigation reports were drawn up in respect of seven officers, "authorization for investigation" was granted in respect of one gendarmerie officer and other related officers.

48. According to the information obtained for the last four years, no incidents were found to be referred to courts other than a preliminary examination report which includes the decision to "grant authorization for investigation" in respect of one gendarmerie officer and other related officers, and two investigation reports concerning 15 law enforcement officials.

49. As to the alleged incidents at Pozantı Prison, a judicial investigation was carried out to determine whether the staff had criminal liability. As a result, decisions of non-

prosecution were delivered in respect of 74 prison officers, while the trials of 34 officers are pending.

50. Moreover, as a result of disciplinary investigations into whether the staff had any administrative liability, it was decided that no disciplinary sanctions were required in respect of 109 officers, six officers were imposed admonishments and 13 officers were reprimanded.

51. No disciplinary measures were taken in respect of the juveniles who were subject to an administrative investigation concerning the allegations.

52. The relevant public prosecutors carry out judicial and disciplinary investigations in response to acts of rape, sexual violence and other acts of torture and ill-treatment of all inmates in prisons by or with the consent or acquiescence of public officials. Prison staff can be subject to direct investigations without the requirement to obtain authorization, as in the case of other public officials. Such acts are not tolerated and officials who are found guilty are punished judicially by independent courts and disciplinarily by the administration.

53. In respect to the closed-down Tekirdağ Prison, an investigation was initiated into an incident of sexual abuse which happened in 2009. A judicial investigation was made by Tekirdağ Chief Public Prosecutor's Office in respect of the eight convicts involved and decisions of non-prosecution were delivered in respect of three convicts. On 17 December 2009, a criminal case was lodged in respect of five prisoners before Tekirdağ 2nd Assize Court, which is pending.

54. A disciplinary investigation was launched by Tekirdağ Prison administration concerning the incident, whereby the disciplinary board of the establishment imposed three prisoners the penalty of five days' solitary confinement. The penalties were upheld by the Tekirdağ Enforcement Judge on 2 March 2010.

55. Concerning the events which allegedly took place in Rize L-type Prison on 5 November 2010, judicial and administrative investigations were launched in respect of 14 staff members. Within the context of judicial investigations, one chief custody officer and three custody officers were detained on remand pursuant to arrest warrants dated 1 July 2011 by the Kalkandere Magistrates' Court. They were subsequently released by the order of Rize Assize Court on 28 July 2011.

56. The trial concluded with the full judgment of the Rize Assize Court dated 26 December 2012, whereby six of the defendants were fined for the offense of wilful injury. However, the pronouncement of the judgment was suspended and probation was decided in respect of them. The remaining defendants were acquitted of the charges.

57. The relevant administrative investigation resulted in the decision of 8 July 2011 by the Judicial Commission of Rize Court of Original Jurisdiction, according to which the chief custody officer and custody officers concerned were suspended from their duties. By a subsequent decision of 9 September 2011 by the same Commission, the decision of suspension was lifted and the officers resumed their duties.

58. Moreover, an examination was also made by the High Disciplinary Board of the Ministry of Justice, on the request to remove the officers from civil service. The Board decided that no determination on the offenses allegedly committed on 15 April 2010 shall be made as the statutory time limit expired. As to the offenses allegedly committed on 5 November 2010, as sufficient evidence could not be obtained that the accused officers committed the offenses, the request to remove the officers from civil service was rejected and no disciplinary penalties were imposed.

Question 5: In light of the Committee's previous concluding observations (paras. 11 and 17), please provide information on measures to ensure that all detainees are guaranteed the right to the fundamental safeguards listed below and information on how their implementation is monitored. Please also provide data on the number of police, prison, and security personnel disciplined or punished for failing to respect them, and indicate any sanctions imposed.

(a) Ensure that all persons deprived of their liberty, including those detained under the Law on Combating Terrorism (Law No. 3713), have the right to prompt access to a lawyer and to notify a family member from the actual moment of deprivation of liberty. In particular, indicate whether any changes have been made to the new sections 10 (b) and 10 (e) of the Law 3713 which may deny those detainees' rights. Noting the State party's follow-up submission, which indicates that legal aid is available to all detainees, please provide data on the number of requests for legal aid received and the number of requests granted, specifying the number of recipients charged with crimes carrying sentences of less than five years' imprisonment;

(b) Ensure that all persons deprived of their liberty have the right to an independent medical examination from the actual moment of deprivation of liberty. In light of the Committee's previous concluding observations (para. 8), please provide information on measures that ensure consideration by officials of medical reports from all competent medical personnel and forensic doctors, including those not affiliated with the Forensic Medicine Institute of the Ministry of Justice. Please provide additional information on the effect of the August 2011 Protocol on "Medical Services for Detainees" in ensuring the confidentiality of medical examinations, and provide the number of cases in which physicians have requested police presence during examinations since it was signed;

(c) Ensure that all detainees are brought promptly before a judge;

(d) Ensure that all persons deprived of their liberty are registered promptly from the actual moment of deprivation of liberty and not only upon formal arrest or charging. Noting the concern expressed by the Committee in its previous concluding observations (para. 18) at reports of law enforcement officials committing torture or ill-treatment against individuals held in custody but not registered, please indicate if the State party's law has been amended to specify the precise period of time in which detained persons must be registered. Please indicate whether family members of the detained can access the registers;

(e) Please provide information on whether video surveillance cameras were installed in all police stations for routine use in interrogations. Please provide the total number of police stations in the State party and the number in which such cameras have been installed.

59. As per Article 59 of the Law on the Execution of Sentences and Security Measures ("LESSM", No. 5275), there are no restrictions on convicts' and detainees' access to their lawyers. Lawyers are always able to visit their clients in prisons, in accordance with the performance of legal profession.

60. Moreover, remand detainees can always meet their lawyers regardless of whether a power of attorney is presented, pursuant to the procedure of open visits, where their conversation shall not be heard by others but may be subject to monitoring by the prison officials.

61. A lawyer is appointed free of charge by the relevant bar association for remand detainees who do not have a lawyer representing them.

62. Convicts' and detainees' right to access to a lawyer has been safeguarded by laws and any restriction on this right constitutes an offense.

63. Article 10 of the Law on Combating Terrorism was revoked on 6 March 2014 by Law No. 6526.

64. Regardless of the length of their sentence, all convicts and remand detainees in prisons are able to access the assistance of a lawyer. Although no figures exist in respect of detainees' requests for the assistance of a lawyer, the data relating to the length of sentences being served by prisoners as of 1 April 2014 is as follows:

Length of sentence	*Convicts*	*Detainees pending final judgment*	*Total*
0-1 year	6,790	786	7,576
1-2 years	6,349	52	6,401
2-3 years	10,559	56	10,615
3-4 years	9,502	105	9,607
4-5 years	13,663	476	14,139
5-6 years	6,192	495	6,687
6-7 years	7,037	907	7,944
7-8 years	4,795	873	5,668
8-9 years	4,566	864	5,430
9-10 years	4,947	1,135	6,082
10+ years	34,900	6,391	41,291
Life sentence	6,429	-	6,429
Total	**115,729**	**12,140**	**127,869**

65. Article 9 (titled "health checks") of the Regulation on Apprehension, Custody and Taking of Statements provides that in order to determine the state of health of an arrested person immediately and in cases of transfer for any reason, deterioration of the state of health, extension of the length of custody, release or referral to judicial authorities, medical examinations, checks and treatments shall be made by doctors from the forensic medicine institute or other official healthcare institutions. Those with chronic diseases shall be able to be examined by a doctor of their choice and the defense lawyer can be present during the examination.

66. In this context, the following principles have been adopted: The doctor and the person examined shall be alone in the examination room, the law enforcement officer who takes the person to the medical examination shall be different from the officer who is in charge of the investigation, and in the event that there are findings which indicate the offenses of torture (Article 94), aggravated torture on account of its consequences (Article 95) and torment (Article 96) laid down in the Penal Code, the public prosecutor shall be promptly notified of the situation.

67. A female person deprived of her liberty may be examined by a female doctor, at her request.

68. It has been laid down in Article 21 of the LESSM that admission to a prison establishment shall be made after a medical examination. In this context, all convicts and detainees entering prisons shall be examined by a doctor. If the prisoner requests during admission or at a later stage, he/she can be referred to a hospital and obtain a separate report and in case of objections, he/she can be referred to university hospitals or the Forensic Medicine Institute.

69. The health conditions of prison establishments are determined by the doctor of the establishment. With a view to protecting the physical and mental health of prisoners and diagnosing illnesses, primary examination and treatment services are provided at the infirmaries of establishments. Those who require further diagnosis, treatment or rehabilitation are referred to state or university hospitals. Results of all examinations and treatments are recorded in personal health files.

70. Both the staff and inmates are given the necessary trainings on keeping the common areas of the facilities clean and on personal hygiene.

71. As per the relevant legal provisions, prisoners with health problems are referred to provincial state hospitals, or to hospitals in other provinces or university hospitals in case treatment is impossible within the province. Referral to hospitals and treatment of prisoners are entirely within the powers and responsibility of healthcare personnel. Prison administrations are not empowered to intervene in this process.

72. There is no difference between prisoners and free persons in terms of access to healthcare services. All prisoners are able to receive basic healthcare services free of charge even if they do not hold any health insurance. Pursuant to a letter of 15 November 2012 sent to prisons by the Ministry of Justice, a number of medical items (orthesis, prosthesis, glasses, hearing instruments, adult diapers) and medicine which were previously paid by patients shall be covered by the State.

73. Concerning the examination of remand and sentenced inmates by doctors, Article 117 § 2 of the Rule on the Administration of Prisons and the Execution of Sentences and Security Measures reads: "Unless requested otherwise by the prison doctor, no official other than medical staff may be present in examination rooms during the examination and treatment of a prisoner. However, for reasons of security, the prison administration shall take the necessary measures in a way where conversations cannot be heard".

74. Article 38 of the Protocol signed on 19 August 2011 between the Ministries of Justice, the Interior and Health reads, insofar as relevant:

> "(1) Protected examination rooms with restraints to prevent escape shall be set up in hospitals which are located in regions where a prison establishment exists.
>
> (2) Medical examinations of remand and sentenced prisoners shall be carried out in protected rooms with restraints to prevent escape. Gendarmerie officials shall stay out of the room and take the necessary security precautions during examination. If requested in writing by the doctor, the gendarmerie official shall wait in the examination room.
>
> (3) Any unlawful demands by the prisoner during the examination shall be immediately reported to the gendarmerie patrol commander by the relevant medical professional.
>
> (4) In hospitals where protected rooms for examining prisoners have not yet been set up, the gendarmerie official shall wait inside the examination room and take protective precautions in a distance where the speech between the doctor and the patient cannot be heard."

75. Medical examinations of prisoners are made in accordance with medical confidentiality and efforts are being made to increase the number of protected rooms.

76. Paragraph 5 of Article 19, titled "Personal Liberty and Security" of the Constitution provides:

> "The person arrested or detained shall be brought before a judge within at latest forty-eight hours and in the case of offences committed collectively within at

> most four days, excluding the time taken to send the individual to the court nearest to the place of arrest. No one can be deprived of his or her liberty without the decision of a judge after the expiry of the above-specified periods. These periods may be extended during a state of emergency, under martial law or in time of war."

77. Pursuant to these provisions, no one may be deprived of his/her liberty except for the conditions stated in the Constitution. The Constitutional right to be brought before a judge has also been upheld by other legal provisions.

78. Within this context, as per Article 91, titled "Custody" of the Code of Criminal Procedure, the time frame to keep the person in custody cannot exceed 24 hours starting from the moment of apprehension, excluding the compulsory time needed to take the apprehended person to the judge or court located closest to the place of apprehension. In the case of collective offences, where there are difficulties in collecting evidence of the offence or where there are a large number of suspects, the public prosecutor may give a written order extending the custody period to three days, each extension not exceeding one day. The apprehended person or his lawyer or legal representative or his spouse or a blood relative of the first or second degree may apply to the magistrate dealing with criminal matters against the apprehension measure or against the written order by the public prosecutor to take the person into custody or to extend the custody period, in order to obtain immediate release from custody. These matters are reviewed by a judge.

79. Regarding persons arrested or taken into custody, Article 6 of the Regulation on Apprehension, Custody and Taking of Statements provides:

> "A record shall be drawn up on apprehension. This record shall include the suspected crime and the circumstances, place and time in which the person was arrested, the officer who made the arrest and the law enforcement officer who identified the suspect and that the suspect's rights were fully stated to the suspect. A copy of the record shall be given to the suspect. In addition, a 'Suspect and Defendant Rights Form' shall be filled and a signed copy handed out to the suspect, which indicates that the person has been notified in writing of his rights and that he/she understood the circumstances".

80. Article 12 of the Regulation states that a register shall be kept for recording placement in custody cells. This register shall include the place, date and time of arrest, and date and time of entry to the custody cell. Current practice is in accordance with these provisions.

81. Article 95 of the Code of Criminal Procedure states that when a suspect is apprehended or taken into custody or the duration of custody is extended, a relative or a person he/she chooses, is notified upon the instruction of the prosecutor.

82. Article 11 of the Regulation on Apprehension, Custody and Taking of Statements obliges the authorities to record every entry to custody cells on the "Register of Persons Taken in Custody". In this register, information is also specified on providing information to the suspect's relatives.

83. Information relating to persons taken into custody by police units is recorded in the custody register mentioned above and entered into the online database of the Department of Coordination and Operation of the General Directorate of Security. Persons taken into custody and their relatives can always access the registers within legal procedures. Moreover, custody procedures are monitored by judicial authorities.

84. Of the 1,271 police stations nationwide, interrogation rooms are present in 1,082 stations and surveillance cameras are installed in 936 of these rooms.

85. The interior security units attached to the General Directorate of the Gendarmerie operate a total of 1,992 custody cells, of which 1,076 cells are for male and 916 for female suspects. The installation of cameras has mostly been completed in these facilities.

Question 6. In light of the Committee's previous concluding observations (para.23), please detail measures to ensure fundamental legal safeguards for persons requiring psychiatric care in psychiatric facilities, mental hospitals and penitentiary institutions.

86. As regards mentally deranged prisoners, Article 18 § 1 of the LESSM provides:

> "The sentences of convicts who have been diagnosed with mental disorders other than insanity, resulting from imprisonment or other reasons and whose confinement in mental hospitals was deemed unnecessary shall serve their sentences in the exclusive sections of designated establishments."

87. In this context, Metris R-type Closed Prison was put in service on 30 March 2012. A section of the closed prisons in Elazığ, Samsun, Manisa and Adana have been arranged as a rehabilitation center for the accommodation of prisoners with such mental disorders.

88. Metris R-type Prison has a capacity to hold 150 inmates; 48 of those places have been allocated for convicts who have been diagnosed with mental disorders specified under the said Article 18 above. The remaining 102-person capacity is reserved for prisoners who need special care due to severe and permanent illness. As of 28 November 2013, 42 prisoners who need special care and 47 prisoners under Article 18 are held in the establishment.

89. Information relating to the capacities and number of prisoners held in prison rehabilitation centers is as follows:

Rehabilitation center	*Capacity*	*Prisoners currently held*
Adana Prison	58	4
Elazığ Prison	58	29
Manisa Prison	52	42
Samsun Prison	50	13

90. With a view to providing uninterrupted healthcare services in prisons, the Protocol on the Regulation of Healthcare Services in Prisons was signed on 30 April 2009 between the Ministry of Health and the Ministry of Justice, according to which doctor needs are met by the Ministry of Health.

91. Physicians and specialists serving in the rehabilitation units of establishments are as follows:

Establishment	*Psychiatrist*	*Family physician*	*General practitioner*	*Physiotherapist*	*Psychologist*
Metris Prison	1	1	1+1 emergency	1	-
Adana Prison	1	1	-	-	-
Manisa Prison	1	1	-	-	-
Samsun Prison	1	1	-	-	-
Elazığ Prison	1	2	-	-	1

92. The treatment and care of prisoners in need of special care is performed in coordination by the medical officers appointed by the Ministry of Health, the medical

officers serving in the Ministry of Justice, and family physicians who provide services for the establishments.

93. Healthcare officers serving in the rehabilitation units of the establishments are listed below:

Establishment	*Medical officer*	*Caregiver nurse*
Metris Prison	5	18
Adana Prison	4	-
Manisa Prison	7	-
Samsun Prison	7	1
Elazığ Prison	7	-

94. Adequate numbers of chief custody officers and custody officers are employed in these rehabilitation centers. Room and area cleaning services are provided by paid sentenced inmates.

Question 7: According to information before the Committee, detainees continue to be held on remand for excessively long periods of time. Please provide information on measures taken to release or bring detainees to trial and prevent such situations in the future.

95. Law No. 6520 amending some laws with the aim of promoting fundamental rights and freedoms was enacted on 2 March 2014. With the said Law, specially authorized courts have been abolished and the maximum period of detention of 10 years which used to be applied for crimes falling under the jurisdiction of such courts has been reduced to 5 years. In this respect an accused may be jailed pending trial for a period of maximum 5 years.

96. Suspected offenses in respect of which a suspect cannot be detained on remand are specified in Article 100 § 4 of the Code of Criminal Procedure. While the threshold was previously crimes carrying one year's imprisonment, pursuant to an amendment on 5 July 2012 (by Law No. 6352), this threshold has been raised to two years. Accordingly, decisions for detention on remand may not be taken if the suspected offense carries less than two years' imprisonment or only a judicial fine.

97. The provisions of Article 101 § 2 previously required that legal and actual reasons and justifications be cited in decisions of detention, continued detention or dismissal of requests for release. However, taking into account the significant nature of the matter and to ensure a stricter implementation, this provision has also been amended by the same law. The new provisions require that proof demonstrating "strong suspicion of crime", "the existence of reasons for detention" and that "the detention measure is proportionate" be presented "clearly, justified by concrete events" for such decisions.

98. In addition, judicial control, which was non-existent prior to 2005, was introduced to the legal system by Articles 109 *et seq.* of the Code of Criminal Procedure. Thus, a number of alternative measures to detention were brought.

99. The original provisions of the Code of Criminal Procedure provided that, only when the upper limit of the penalty was three years' imprisonment or less, then a judicial control measure could be imposed. However, an amendment to Article 109 § 1 enables judges to impose a judicial control measure for all offenses. The same amendment brought more judicial control choices, such as not leaving the domicile or a certain locality, and restriction on travelling to certain places or regions. Thereby, taking decisions of judicial control instead of detention have been made much easier.

100. By this way judges have been given more options other than detention or release. The "principle of proportionality" has been made prevalent in preventive measures and the exceptional nature of the detention measure has been consolidated.

101. In addition, the amending law repealed Article 250 *et seq.* of the Code of Criminal Procedure, which regulated public prosecutors and courts carrying out investigations and prosecutions relating to organized criminal activities.

102. On 11 April 2013, several amendments were made to the Code of Criminal Procedure by Law No. 6459. Accordingly, as per Article 105 of the Code of Criminal Procedure, courts and judges are now able to rule on requests for release made during hearings, without consulting the opinions of the public prosecutor.

103. With this amendment, equality of arms has been ensured by putting an end to the practice of taking opinions from the public prosecutor. By the same amending law, Article 108 of the Code of Criminal Procedure was also revised, which now stipulates that the review of the detention at the investigation stage shall be made during a hearing, where the suspect or defense lawyer shall be present.

104. A paragraph has been added to Article 270 of the Code of Criminal Procedure, which obliges that in objections filed pursuant to Articles 101 and 105 of the Code of Criminal Procedure, the written observations obtained from the public prosecutor be communicated to the applicant or the defense lawyer. This amendment is aimed at bringing the provisions of the Article in line with the principles of equality of arms and adversarial proceedings by granting the defendant the right to respond to the observations of the public prosecutor.

105. Moreover, a paragraph has been added to Article 141 (titled "Compensation on Account of Preventive Measures") of the Code of Criminal Procedure, which introduces new means for compensation for those who were unable to avail the legal right of objection to arrest or detention. In addition, by repealing paragraph 1/a of Article 144, it has been ensured that those whose length of detention was reduced on account of another conviction are also eligible for the right of compensation under Article 141 of the Code of Criminal Procedure.

106. Following the introduction of individual application to the Constitutional Court as of September 2012, complaints on the right to liberty and security are also examined by the Constitutional Court. In an application dated 21 November 2013 (No. 2012/1303), for example, after finding the applicant's complaint of excessive length of detention admissible, the Constitutional Court ruled that Article 19 of the Constitution has been violated and awarded non-pecuniary damage (see similar decisions: No. 2012/239 of 2 July 2013 and No. 2012/521 of 2 July 2013).

107. As a recent development, Article 10 of Law No. 5235, as amended on 18 June 2014, introduced "criminal magistrates' offices" which shall be in charge of issuing decisions on protective measures. Accordingly, these magistrates will not hold trials but shall only decide on protective measures. Before the amendment and pursuant to the text adopted on 26 September 2004, the implementation of the provisions relating to protective measures was among the functions of magistrates' courts. However, undertakings related to protective measures occupied a considerable part of these magistrates' workload. The amendment is aimed at the elimination of cases where magistrates refrain from including adequate reasoning in their detention orders with a view to avoiding appearance of bias; specialization in protective measures; safeguarding basic rights and freedoms in a more effective manner; preventing prolonged detentions; and examining complaints with more diligence. Moreover, the amendment aims to reach nationwide standards on the decisions concerning protective measures.

108. Judges and prosecutors are regularly monitored by the Supreme Board of Judges and Prosecutors (HSYK) inspectors, who are from the judge-prosecutor profession as well and draw up reports indicating their professional knowledge, works and performances. The issue of how much importance is attached by judges and prosecutors to cases with detained defendants and promptness of the proceedings are evaluated in the separate sections of the reports. These results influence, to a great extent, the positions judges and prosecutors will be appointed to in the future and their promotions. Thanks to this monitoring mechanism, it is ensured that judges and prosecutors carry out legal proceedings related to detained persons in a diligent manner, taking into account the provisions of the European Convention on Human Rights and the judgments by the European Court of Human Rights (ECtHR).

109. The number of remand prisoners in prisons is followed regularly by the General Directorate of Prisons and Detention Centers and reported weekly and directly to the Minister of Justice.

Question 8: Please provide the Committee with information on measures taken to ensure effective, transparent and independent investigations into all outstanding cases of alleged disappearances, including the large number still outstanding from the 1974 conflict in Cyprus, which the European Court has held to constitute a continuing violation. What measures have been taken to follow these investigations with actions to identify and, as appropriate, bring to justice those responsible for breaches of the Convention concerning the members of this group of victims? In addition, please clarify whether relatives of the victims have been notified of the status of such investigations and prosecutions. Noting the State party's follow-up report to the Committee, please provide additional information on all cases of disappearances clarified with the United Nations Working Group on Enforced or Involuntary Disappearances, including whether the perpetrators were prosecuted and the outcome of any trials, and indicate measures being taken to resolve the 60 cases unresolved as of March 2012. Please also describe measures taken to comply with outstanding judgments of the European Court of Human Rights concerning disappearances, including the judgments in Cyprus *v.* Turkey *and* Varnava and Others *v.* Turkey. *Please also indicate whether the State party is considering ratifying the International Convention for the Protection of All Persons from Enforced Disappearance.*

110. The missing persons issue in Cyprus is common to both sides, namely the Turkish Cypriot side and the Greek Cypriot side. In fact, the Turkish Cypriots were the first to experience this human agony from 1963 onwards. Thus, 50 years elapsed since the events that have eventually led to disappearances of the first Turkish Cypriots. They have been missing ever since.

111. The absence of a judgment from the ECtHR, due to procedural reasons,[1] has been preventing the Committee of Ministers of the Council of Europe from examining whether the Greek Cypriot side is conducting any effective investigation into the whereabouts and fate of missing Turkish Cypriots at the Human Rights meetings (CM-DH) regarding the examination of the execution of judgments of the ECtHR. No other international

[1] The ECtHR found the applications by the relatives of Turkish Cypriot missing persons inadmissible on the ground that 2001 was too late to lodge their applications (see, for example, *Karabardak v. Cyprus* (76575/01) and *Baybora v. Cyprus* (77116/01)). The Court subsequently clarified in the *Varnava and others* judgment that applications concerning missing persons should have been lodged by the end of 1990 at the latest. Thus, the ECtHR did not ever consider whether the Greek Cypriot side met its requirements under Articles 2, 3 and 5 with respect to Turkish Cypriot missing persons.

monitoring organs are effectively pursuing the Turkish Cypriot missing persons issue with the Greek Cypriot side.

112. The Turkish Cypriot side, on the other hand, has been implementing measures with a view to conducting effective investigations into the whereabouts and fate of Greek Cypriot missing persons. The ECtHR as well as the CM-DH, that has been examining these investigations periodically within the context of "*Cyprus v. Turkey*"[2] and "*Varnava and Others v. Turkey*"[3] judgments, consider the ongoing investigations to be advancing in the right direction. In December 2013, the CM-DH took into account the positive developments, and decided to suspend the examination of this issue for a year.

113. The measures that are being implemented by the Turkish Cypriot side are directed to find: (1) the whereabouts of the persons reported as missing; (2) what happened to them; (3) the circumstances in which the disappearances occurred. The investigations aim to establish; (4) the causes of death; (5) evidence is collected and assessed so that those who committed acts of violence or illegal acts can be held to account; (6) the investigations are not confined to the island of Cyprus; and (7) the families are informed.

114. The Turkish Cypriot side is implementing these measures in two phases in line with the *Varnava and Others v. Turkey* judgment. The first phase is entrusted to the Committee on Missing Persons (CMP) that is operating under the auspices of the United Nations. After the CMP completes its work, criminal investigations which are conducted by a special unit established for this purpose, the Missing Persons Unit (MPU), under the supervision of the constitutionally independent TRNC Attorney-General's Office follow.

115. The ECtHR held that it is satisfied with the effective work of the CMP, followed by the steps undertaken towards the criminal investigations in its case law.[4]

The first phase: CMP

116. By March 2014, out of 2001 reported missing Turkish Cypriots and Greek Cypriots, the remains of 1,073 Turkish Cypriot and Greek Cypriots persons have been exhumed from different burial sites located across the island. The anthropological laboratory has analyzed the remains of some 871 individuals in an attempt to reach presumptive identifications before bone samples are sent to the DNA Laboratory for DNA typing. 125 Turkish Cypriots and 364 Greek Cypriots exhumed within the framework of the CMP project have been identified through this process.

117. The CMP conducts a family-oriented process. The families of the missing are involved with the CMP's work, and upon identification, the CMP notifies the families and offers the possibility to view the remains of their relatives at the CMP Family Viewing Facility.

118. The remains of the identified individuals as well as artefacts found with them are then returned to the relatives. The CMP also prepares and gives the families two reports, namely the Summary Exhumation Report and the DNA report. During the viewing phase, the traumas on the bones are explained to the families, which may indicate the cause of death. The arrangements for the funerals of identified individuals are made by their families

2 *Cyprus v. Turkey* (No. 25781/94), 10/05/2001.

3 *Varnava and Others v. Turkey* [GC], Nos. 16064/90; 16065/90; 16066/90; 16068/90; 16069/90; 16070/90; 16071/90; 16072/90; and 16073/90; 189-192, 18 September 2009.

4 *Charalambous and Others v. Turkey* (46744/07) and 28 other applications; *Papayianni and Others v. Turkey* (479/07) and two other applications; and *Ioannou Iacovau and Others v. Turkey* (24506/08, 24730/08, 60758/08) and two other applications; *Efthymiou and 3 others v. Turkey* (40997/02) and 12 other applications.

with the financial and, if need be, practical support of the CMP. A team of psychologists provides psychosocial support to family members should they require or request it.

119. The Turkish side is actively contributing to the effective work of the CMP. For example, the Turkish side has been providing the CMP with new information it receives from different sources on the possible locations of graves of missing persons,[5] granting the CMP access to the military areas,[6] and assisting it financially.

120. In 2013, Turkey, as a guarantor State in Cyprus, contributed 200,000 dollars and CMP sent again a letter to the Turkish Embassy in Nicosia to convey their appreciation for Turkey's interest and support for the work of the Committee. The TRNC Ministry of Foreign Affairs gave a further 50,000 dollars to the CMP in addition to the TRNC's annual contributions to the CMP from its budget amounting to a further 1 million dollars. The Security Council of the United Nations, in its report on United Nations Peacekeeping Force in Cyprus (UNFICYP) dated 30 December 2013, highlighted the unprecedented number of identifications carried out by the CMP in 2013, and the Security Council, in its resolution on UNFICYP dated 30 January 2014, welcomed all efforts to accommodate the CMP's exhumation requirements.

121. In the *Varnava and others* case, the CMP already found, identified and returned the remains of Mr. Hadjipantellis to his family. The CMP is continuing with its work on the remaining eight missing persons in this case.

The second phase: criminal investigations

122. The second phase of investigations is conducted by the Turkish Cypriot Police under the supervision of the TRNC Attorney-General in accordance with section 29 of the Law Office Act (Law No. 72/1991, as amended). The independence of the Law Office, which consists of the Attorney-General and Counsels of the State, is guaranteed under Article 158 of the TRNC Constitution.

123. In November 2010, a Missing Persons Unit (MPU) was established in the Turkish Cypriot Police Force and it is entrusted with the exclusive task to conduct criminal investigations into reported missing persons identified by the CMP. This Unit is an independent unit and reports directly to the TRNC Chief of Police.

124. The establishment of the MPU evolved from the Attorney-General's decision on the review of unresolved deaths after the CMP exhumed, identified and returned the remains to the families of reported Greek Cypriot missing persons. The TRNC Government recognized the needs of the families to have more information on the deaths of their relatives and, as a result of discussions, the TRNC Government made additional resources available to the Chief of Police to establish the MPU to deal solely with the unresolved deaths during the 1963/64 and the 1974 period.

125. The MPU pledges to deal with families with honesty, trust and confidentiality. Providing a "family centered" approach is at the heart of the MPU project. The team seeks to identify and address issues and questions that are unresolved from the families' perspective. Its primary aim is to address, as far as possible, all the unresolved concerns that families raise.

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[5] Document S/2000/1138, C. Missing persons, 14: "*The two sides, which are solely responsible for its implementation, in 1998 provided each other with information already at their disposal on the location of graves of Greek Cypriot and Turkish Cypriot missing persons*" (emphasis added).

[6] The Human Rights Council underlined that no request by the CMP for access to the military areas has been denied by the Turkish side. See the report of the Office of the United Nations High Commissioner for Human Rights on the question of human rights in Cyprus (A/HRC/22/18).

126. MPU review of a case is a five-step process involving the following stages: collection, assessment, review, focused investigation and resolution.

127. The Collection process involves compiling all relevant information. At this stage, primarily, the MPU contact the relatives/complainants and/or their legal representatives, locate and question witnesses in the areas where the remains may have been found and/or disappearances took place; carry out excavations which are located through witness testimonies, and collect ballistic information. The MPU may contact other organizations that may possess additional relevant information, including the International Committee of the Red Cross (ICRC), UNFICYP, and the Turkish and Turkish Cypriot authorities.

128. After the information is assessed, the Review process is designed to be exhaustive and includes a re-examination of all documentation, exhibits and other material associated with a case. The intention is to take advantage of any developments in forensic science to identify any evidential opportunities arising from witnesses and to exploit any potential opportunities on the case that may have arisen.

129. If evidential opportunities are identified during the Review process which can be realistically pursued, focused investigation of the death will proceed and where there is credible evidence available, files will be forwarded to the Attorney-General's Office for consideration and prosecution, if appropriate. The evidential standard applied is identical to that used by the Police.

130. However, it has to be noted that a considerable amount of time has passed since many of these offences were committed. There are therefore likely to be very few cases in which there is sufficient evidence to prosecute. It is not possible to recreate the investigative circumstances of 40 or 50 years ago (e.g. physical evidence could be lost or witnesses could now be unavailable, etc.).

131. A Family Liaison Officer has been put in place comprising a help desk and liaison officers dealing directly with families. From the outset of the Review process, families have the opportunity to raise any questions or concerns that they may have about their particular case which the MPU will then endeavor to answer as far as possible.

132. Once a case review is completed, the Attorney-General's Office closely scrutinizes all aspects of the review. The findings of the review are contrasted with the requests made by the family to ensure that all their queries have been addressed as far as possible. A File Report is then produced. The Report sets out: the MPU's findings with respect to the case, any new information that has been uncovered and the answers to the family's questions as far as possible.

133. After the Report has been finalized, members of the MPU invite the families to meet with them, and inform them of their findings, and provide clarifications should they have further questions.

134. The MPU is part of a process (which includes the Attorney General's Office) aiming to achieve an Article 2-compliant investigation as may be possible.

135. The initial steps undertaken as part of the criminal investigation in continuation of the work of the CMP have been addressed by the ECtHR in the *Charalambous* case and the subsequent cases. The Court held that the ongoing investigations did not disclose any lack of good faith or will on the part of the authorities. The Court also held that there was no indication of obstructiveness or callous indifference on the part of the investigating authorities towards the families such as might disclose treatment contrary to Article 3 of the Convention. Hence, the applicants' arguments that the investigations were ineffective as per Articles 2 and 5 of the Convention, or their allegations relating to Article 3 were rejected.

Current state of play

136. The MPU is currently advancing 294 cases of reported missing persons who were subsequently identified by the CMP. The process is taking longer than was originally anticipated because many of the cases under review are extremely complex.

137. Currently, 61 cases are in the Collection process, 185 cases are in the Assessment process, and 48 cases are in the Focused investigation process. The *Hadjipanteli* case included in the *Varnava* judgment is among the cases in the Focused investigation process.

138. The work of the CMP and the investigations are ongoing. It is expected that these procedures will be completed with due expedition.

Question 9: In light of the Committee's previous concluding observations (para. 20), please provide information, disaggregated by age, ethnicity and geographical location, on the number of complaints, investigations, prosecutions, convictions and sentences imposed in cases of violence against women, including domestic violence and "honour killings," since consideration of the State party's last report. Please also provide information on any prosecutions for incitement to suicide of women believed to have violated so-called "family honour". Describe efforts taken by the State party to encourage women to report acts of violence against them to the authorities, as well as efforts to increase authorities' granting and implementation of protective orders to women. Please also indicate if any law enforcement personnel have been subjected to disciplinary or criminal penalties for ignoring requests for protection from women complaining of domestic or gender-based domestic violence, and particularly describe any remedial action following the death of Ferdane Çöl, who reportedly repeatedly sought police protection from her husband prior to her murder in October 2011. Please also describe any actions to increase available shelters or establish hotlines for victims and provide data on redress awarded in cases of violence against women since the last review, including compensation or rehabilitation.

139. As per Law No. 6284 on the Protection of Family and Prevention of Violence Against Women, which came into effect in March 2012, measures are taken in respect of all victims of domestic and other violence against women, regardless of language, religion, race, ethnicity, age, etc. From the date on which the law came into force until 9 April 2014, 29,018 protective injunctions, 183,867 preventive injunctions and 3,006 coercive detention orders have been taken under the said Law. As of 9 April 2014, a total of 18,812 victims of violence have applied to Violence Prevention and Monitoring Centres, which have been established as per the said Law and have been operational since 2013.

140. From 1 January 2009 to 31 March 2014, a total of 31,333 incidents of domestic violence happened and 76,411 women were exposed to domestic violence in areas within gendarmerie jurisdiction.

141. Statistics obtained from the Ministry of Justice indicating investigations made, cases filed and convictions ruled in respect of the offenses of domestic violence (Articles 82 § 1-d and 86 § 3-a) and honour killings (Article 82 § 1-k of the Penal Code) from 2009 to 2014 are provided in annex 3.

142. It has been determined that between 1 January 2009 and 31 March 2014, within the responsibility zone of gendarmerie, two cases with respect to encouraging women, who were allegedly believed to have violated the honour of family, to commit suicide were referred to the judicial authorities.

143. There are 135 social service centres in 80 provinces in Turkey as of 10 April 2014 and they are responsible for the implementation of social services and follow-up by

identifying the people in need, providing children, young people, women, men, the handicapped, the elderly and families with protective, preventive, supportive and improvement services as well as guidance and consultancy services together and in the most easily accessible manner and in cooperation with, when necessary, public institutions and organisations, local governments, universities, non-governmental organisations, and volunteers. The social service centres are also responsible for the coordination of the above-stated services. The following activities are carried out in these social service centres: evaluation of the situation of women who applied to the organisation, claiming that they were subjected to violence and/or women who were identified during field searches who were subjected to violence, implementation of Law No. 6284 on the Protection of Family and Prevention of Violence Against Women and providing women with guidance and orientation services for taking the necessary precautions in order to create an environment in which women benefit from the services they need, organisation of educational and social events and artistic activities to increase their participation to social life, as well as to raise the knowledge and awareness of individuals and families. Within the scope of the events organized on "8 March International Women's Day" the violence against women and abuse of girls are being condemned, and the public is informed via the media.

144. Information on awareness-raising projects, programmes and campaigns concerning the prevention of violence against women is provided in annex 4.

145. The "Department on Combating Domestic Violence" was established and put into operation within the Department of Peace and Order of the General Directorate of Security of the Ministry of the Interior on 03.08.2011 for the purpose of implementation of security services with respect to combating domestic violence countrywide in a coordinated manner, and implementing the measures, in cooperation with relevant institutions and organisations for individuals subjected to domestic violence. In order to provide coordination with provincial security directorates, the Homicide Bureaus within the Peace and Order departments in provinces, and Peace and Order Bureaus have been assigned as liaison offices.

146. One of the fundamental principles of Law No. 6284 on Protection of Family and Prevention of Violence against Women is to follow a fair, effective, and expeditious procedure in the provision of support and services to be given to victims of violence. To that end, the authority to decide on injunction that was only vested with family court judge by Law (No. 4320) on the Protection of Family, which was in force before Law No. 6284, has also been partially given to chief of civil administration, and to chief of law-enforcement in cases where there is peril in delay, so as to be submitted later for approval in terms of certain precautions. Moreover, aside from the victim, the Ministry of Family and Social Policies can make a request for injunction in person. In addition, it has also been laid down that while issuing protective injunction to accelerate the process, evidence and documents will not be sought and preventive injunctions shall be issued and implemented without delay. Announcement and notification clauses will not be sought in the implementation of an injunction, and the public officials who receive the report are obliged to fulfil their tasks without delay and to notify the authorities with respect to other precautions needed to be taken.

147. In this context, within the Gendarmerie jurisdiction:

- In 2012, 6,137 protective/preventive injunctions in total were issued. 4,792 of these were preventive and 1,345 of these were protective;
- In 2013, 5,894 protective/preventive injunctions were issued;
- Between 1 January 2014 and 31 March 2014, 1,015 protective/preventive injunctions were issued.

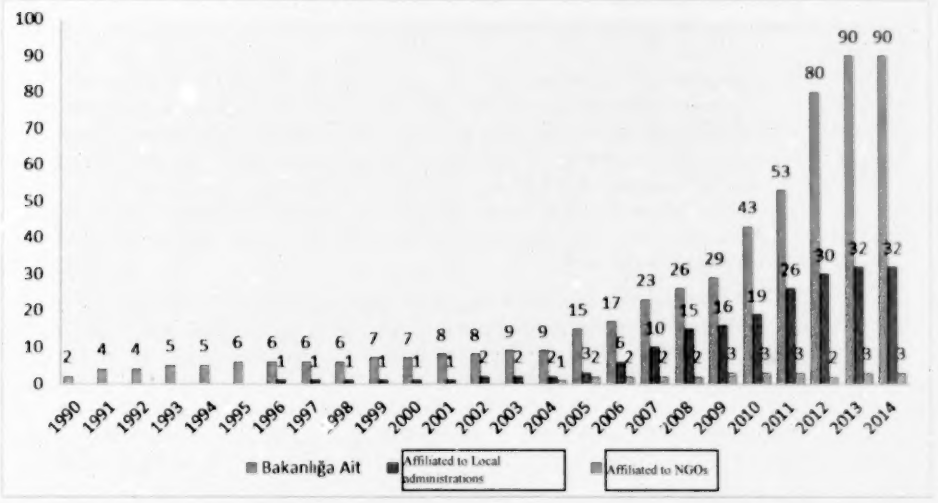
148. "Pilot Implementation Cooperation Protocol Regarding the Use of Electronic Support Technologies within the scope of Combating Violence against Women" pursuant to Article 12 entitled Follow-up with Technical Methods of Law No. 6284 was signed between the Ministry of Family and Social Policies and the Ministry of the Interior on 27.09.2012. In this context, the pilot implementation of the security button has been launched in Adana and Bursa provinces. A police officer was assigned to ensure liaison and communication between Security Directorate and Violence Prevention and Monitoring Centre within daily working hours.

149. Enforcement of injunctions on changing identity and other information and documents issued by judge within the scope of Article 4/1-ç of the Law (No. 6284) on Protection of Family and Prevention of Violence against Women is being performed by the Department of Peace and Order of the General Directorate of Security.

150. Women Guest House services in Turkey are operated by the Ministry of Family and Social Policies and non-governmental organisations and local administrations. At present, 125 women guest houses with 3,323-person capacity provide services in Turkey. 90 of these guest houses with 2,508-person capacity are affiliated to the Ministry of Family and Social Policies, 32 of them with 779-person capacity are affiliated to local administrations, and 3 with 36-person capacity are affiliated to non-governmental organisations. Apart from these women guest houses, 2 guest houses with 30 people capacity for men subjected to violence have been put into service, and are affiliated to the Ministry of Family and Social Policies. Works are under way to open new guest houses.

151. In June 2011, there were only 48 women guest houses with 1,014 person capacity affiliated to the Ministry of Family and Social Policies, whereas as of April 2014 the number of women guest houses have been increased to 90 with 2,508 person capacity. Data with respect to the number of guest houses by years are shown in the chart below:

Chart 1
Number of Women Guest Houses by Years



152. The 183 Women, Family, Children, Handicapped, and Social Service Advisory Hotline provides services within the capacity of the Ministry of Family and Social Policies. The 183 Hotline has been receiving calls 24/7 since 2007.

153. Incoming calls with respect to women, children, handicapped, martyrs' relatives, and veterans are received by means of the 183 Hotline, and guidance and counselling services are accordingly provided. Cases of negligence, abuse and violence or advice calls asking for necessary precautions to be taken to prevent a particular case of "honour killing" are reported to persons in charge of emergency response teams and/or to law enforcement officers in provinces where such cases occurred. The Emergency response teams ensure coordination with security and gendarmerie units, so that they immediately intervene in the case.

154. In 2011, 12 officials serving at the 183 Hotline received 51,046 phone calls. In 2012, the number of 183 Hotline personnel had been increased to 33, and 123,824 calls were recorded.

155. In 2013, 107,716 calls were answered by the 183 Hotline. Throughout 2013, 10,286 cases of violence were transferred to provincial emergency response teams. 5,084 of these calls were related to violence against women, 3,925 of them were related to violence against children, 761 of them concerned violence against the handicapped, and 516 of them were on violence against elderly people.

156. In addition, women, children and family members who were exposed to violence or at risk of being exposed to violence, and persons who are victims of persistent pursuit, can register all their complaints through the 156 Gendarmerie Emergency Hotline providing services on a 24/7 basis.

157. With a new arrangement brought by Law No. 6284, treatment and health care expenses of victims of violence are covered by the State in certain conditions. Furthermore, if it is decided that the person who resorted to violence should be treated or rehabilitated, the expenses other than those covered by general health insurance are also covered by the State. The services provided for the victim of violence are free of charge. Financial support can also be provided in line with the needs of the victim.

158. Following the death of Ferdane Çöl, her mother Sura Maviş and father Fikret Maviş filed a claim for pecuniary and non-pecuniary damage before İzmir 3rd Administrative Court (Case No. 2013/667), and the case is pending.

Question 10. Following the State party's ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, please indicate whether the State party has established a national preventive mechanism (NPM). Noting the State party's follow-up submission, please provide additional information about the NPM's mandate and confirm whether it will conform to the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) and be independent from the executive branch.

159. By Cabinet Decree dated 9 December 2013, the Turkish Human Rights Institution was designated as the national prevention mechanism to fulfil the duties and use the authorities laid down in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The decision entered into force upon its publication in the Official Gazette No. 28896 dated 28 January 2014. There are ongoing amendment works with respect to the Law on the establishment of the Turkish Human Rights Institution in order to enable the Institution to fulfil the duties in question.

160. The Turkish Human Rights Institution was established in accordance with the Paris Principles and it is a public entity with administrative and financial autonomy. Further information concerning the Institution is given under the replies to question 37.

Question 11: Please provide information on measures to guarantee the independence of the judiciary, and particularly to ensure the independence of judges from prosecutors, noting concerns expressed by the Special Rapporteur on the independence of judges and lawyers.

161. With regard to the independence of prosecutors, as a result of legislative amendments within the framework of harmonization of domestic legislation with the EU acquis, the authority of the Minister of Justice and governors to give an order and make a request regarding preliminary investigations was annulled. Within this scope, no authority, including the Minister of Justice and heads of civil administrations, other than Public Prosecutors can make a request and issue an order to law enforcement officers with respect to judicial investigations.

162. With regard to the independence of judges, the amendments made to the Code of Civil Procedure (No. 6100) dated 12.1.2011 and the Code of Criminal Procedure (No. 5271) dated 4.12.2004, courts are vested with the right and authority to make direct correspondence with all agencies and institutions.

163. It is clearly stated in Article 28 of the Cadastral Law (No. 3402) dated 21.6.1987 that a judge can demand any records and information from relevant official authorities that may have an impact on solving the dispute. In relation to legal arrangements enabling courts to make direct correspondence as regulated in Article 26 of Law No. 5271, courts have the authority to make a direct request for any information and document from any institution and organisation in lieu of public prosecutors. In this respect, legal regulations making courts dependent on prosecutors were eliminated.

164. By the Circulars No. 4 on "Regulation of Suspect-Accused Follow-up Forms and Arrest Warrant in Default in National Judiciary Informatics System (UYAP) and Monitoring of their execution and up-to date status" and No. 5 on "Warrant of Compulsory Process", it was provided that arrest warrants and warrants of compulsory process issued by courts shall be sent directly to the relevant law enforcement unit via UYAP, which can also be followed by prosecutors' units through the online system, so that the acceleration of proceedings are provided.

165. In the Circular No. 15 on "Official Correspondence", the procedures and principles to be considered in the official correspondence with the Supreme Board of Judges and Prosecutors were determined. Accordingly, correspondence shall be made by electronic signature via UYAP. Moreover, the heads of commissions of the Board are given the authority to make direct correspondence by excluding the Public Prosecutors' Offices from such proceedings.

166. With the Circular No. 19 on "Demands for Maps and Aerial Photo", it is regulated that courts can directly ask for information and document from all institutions and organisations, including General Command of Mapping, that a map information officer shall be appointed to each court and any request shall be made through him/her via the web site of General Command of Mapping. It also stated in the Circular that all such transactions shall be carried out through UYAP after ensuring the integration between UYAP and General Command of Mapping.

167. With the implementation of the Circular, the Map Office located within the Ministry of Justice was removed, and regulations with respect to issues such as courts' forwarding their requests of maps and aerial photos to relevant command through the Ministry of Justice, and appointment of a trustee by the said Ministry for payment of fees and sending the requested maps were abolished, thus the principle of independence of courts has been strengthened.

168. According to the Circular No. 21 on "Matters to be considered in Referring Files to Appellate Review", files shall be kept orderly, all documents shall be added to UYAP, criminal case files shall be directly referred to the Chief Public Prosecutor's Office of Court of Cassation without referring them to Public Prosecutors, each file shall be put in different envelopes which can be collectively sent in same sacks, files with their enclosures shall be referred to the departments in charge, appeal fees shall be checked, notification shall be considered, if a writ bearing e-signature is sent by the Court of Cassation via UYAP, it shall be filed, application shall be recorded in due form and a certificate of receipt for free of charge shall be handed in applicant.

169. With the above-mentioned regulations realized in line with the views of the Court of Cassation, the Council of State, and the Chief Public Prosecutor's Office of Court of Cassation, it is aimed to accelerate the appellate review process.

170. With the Circular No. 25 on "Supervision of the Secretary Services of Courts and Execution and Bankruptcy Offices", it is stated that the personnel shall be inspected at least once in every three months within the scope of administrative duties of judges in which whether transactions are carried out in a timely, accurate, and complete manner through UYAP shall be observed.

171. In line with the opinions taken from the Inspection Committee of the Supreme Board of Judges and Prosecutors, the Circular No. 131 issued by the Ministry of Justice as the mere legal basis concerning the monetary and cash account inspection by judges was abolished. In this context, with the Circular No. 28/1 of the Ministry of Justice, it was adopted that monetary and cash account inspection shall be carried out by prosecutors, thus the recommendations of the EU in its reports to withdraw judges from administrative duties have been partially fulfilled.

Article 3

Question 12: Regarding the Committee's previous concluding observations (para. 15(b)), please indicate whether the State party has taken steps to ensure that non-European asylum seekers are eligible for protection. Please provide data on the number of asylum seekers, disaggregated by country of origin, who have been returned, extradited or expelled. Please provide details including the countries to which individuals were returned and the grounds on which they were returned. Also, please clarify the number of cases in which asylum seekers have appealed negative determinations, the body that considered each appeal, and the outcomes. Please also indicate the number of persons, disaggregated by country of origin, who have been granted asylum or humanitarian protection on the ground that they would face a risk of torture if expelled, returned, or extradited. Also, please indicate the number of Syrian refugees presently accommodated in camps on the territory of the State party and data on the number of Syrian refugees who have obtained legal status and documentation authorizing them to remain in the territory of the State party. Please describe measures to ensure that the Office of the United Nations High Commissioner for Refugees (UNHCR) and independent human rights organizations have unlimited access to them, and indicate what is being done to ensure such persons access to asylum procedures.

172. Turkey has ratified the Convention relating to the Status of Refugees with a declaration by exercising a right bestowed on countries by Article 42 of the Convention. It has brought its national legislation on refuge and asylum in compliance with 1951 Refugee Convention by issuing "Regulation Concerning Procedures and Principles to be executed for Foreigners Taking Refuge in Turkey or Applying for Residence Permit in Turkey to Take Refugee in Another Country on an individual basis, and Foreigners Coming to

Turkish Borders for Collective Asylum and Possible Population Movements" on 30 November 1994, taking into consideration the latest developments and human rights violations in the region.

173. Turkey adopted the 1951 Refugee Convention with a geographical limitation. In this respect, people coming from Europe are accepted as refugees, however, people coming from non-European countries are accepted as asylum seekers and thus they are subject to international protection until they are settled in a third country.

174. However, despite of such dual definition, all requests are addressed in accordance with Article 6 of the 1994 Asylum/Refugee Regulation and within the framework of the 1951 Refugee Convention and the 1967 Protocol thereto without any discrimination in terms of asylum procedures.

175. Both groups enjoy the same social and healthcare benefits, as well as rights to work, employment and education, without any discrimination.

176. In addition, Turkey's "National Action Plan on Asylum and Migration" was put into effect in 2005. It has been stated in Article 4.13 of the National Action Plan that lifting the geographical limitation would be dealt in detail during the accession negotiations to the European Union, and it will be lifted following the signing of the full membership agreement in a manner that will not encourage a direct flow of refugees into our country. Accordingly, depending on the implementation of the necessary legislative and infrastructural changes and the sensitivity to be displayed by the EU Member States on burden-sharing, the lifting of such limitations would be taken into consideration.

177. Between 2005 and March 2014, 125,213 persons applied for asylum in Turkey. Application files that failed to meet the criteria set forth in the Geneva Convention have been closed. The number of persons who received the 1st refusal is 543, and the 2nd refusal, 699. Furthermore, 36,703 asylum seekers were settled in another country from 2005 until today.[7]

178. In case of repatriating a person whose application was completely refused, if capital punishment or the death penalty exist in his/her country of origin, or he/she is likely to be exposed to torture or inhuman or degrading treatment or punishment, or international or internal armed conflict that poses a serious and individual threat to his/her life due to indiscriminate violence existing in his/her country of origin, the applicant is not repatriated or deported.

179. Chart indicating the decisions made between 2005 and March 2014 is as follows:

Nationality	*Closed File (2nd Negative Decision)*	*Pending Secondary Protection Decision*	*Secondary Protection Decision*	*Decision of Refusal (1st Negative Decision)*	*Total*
USA	2				2
Afghanistan	89			120	209
Germany	1				1
Albania	1			1	2
Azerbaijan	13			3	16

[7] 1st refusal signifies the negative decision made by the administration against an asylum applicant whose application for asylum does not meet the 5 criteria set forth in Geneva Convention. 2nd refusal signifies the closing of a file due to the evaluation of applicant's objection to the decision of 1st refusal and for other reasons such as absconding, acquiring Turkish Citizenship, death, and voluntarily waiving his/her request.

Nationality	*Closed File (2nd Negative Decision)*	*Pending Secondary Protection Decision*	*Secondary Protection Decision*	*Decision of Refusal (1st Negative Decision)*	*Total*
Bangladesh	3			1	4
Belarus				3	3
Benin				1	1
Bosnia-Herzegovina	1				1
Brazil				1	1
Bulgaria	3			1	4
Burundi				1	1
Algeria	7			1	8
China	21			7	28
Eritrea	11			3	14
Armenia				1	1
Ethiopia	1		3	7	11
Morocco	11			11	22
Côte d'Ivoire	8				8
Philippines				1	1
Palestine	38			29	67
Gambia	2				2
Ghana	2				2
Guatemala	1				1
Georgia	5			5	10
India	2				2
Iraq	50	1		55	106
England				1	1
Iran	92		1	40	133
Cameroon	2			5	7
Kazakhstan	8			8	16
Kenya				1	1
Kirghizstan	25			6	31
Congo	5	4		3	12
Cuba				1	1
Liberia				2	2
Lebanon				3	3
Malaysia				1	1
Egypt	1			1	2
Mongolia	1			4	5
Moldova	9			2	11
Mauritania	1			2	3
Myanmar	10			3	13
Nigeria	9			2	11
Philippines				1	1

Nationality	*Closed File (2nd Negative Decision)*	*Pending Secondary Protection Decision*	*Secondary Protection Decision*	*Decision of Refusal (1st Negative Decision)*	*Total*
Uzbekistan	56		5	55	116
Pakistan	4			2	6
Romania	2			2	4
Rwanda	3			2	5
Russian Federation	39			11	50
Senegal	3			1	4
Sierra Leone				1	1
Singapore	1				1
Somalia	42	1		36	79
Sri Lanka	3			5	8
Sudan	4			8	12
Syria	24			17	41
Saudi Arabia	1				1
Tajikistan	3			14	17
Tanzania				2	2
Tunisia	3			1	4
Turkmenistan	67			46	113
Israel	1				1
Uganda	2			2	4
Ukraine	2			1	3
Jordan	1			1	2
Vietnam	2				2
Stateless	1				1
Total	**699**	**6**	**9**	**544**	**1258**

180. 188 cases have been brought before administrative courts and the ECtHR against the decisions made by the Ministry of the Interior on foreigners who filed asylum requests in Turkey from 1995 until 16 December 2013. 82 of them have been brought before the ECtHR. 26 cases have been struck off the list of cases by the ECtHR. In one case, the application has been withdrawn. 41 cases are pending. In 14 cases, violation of Articles 3, 5, 5/1, 5/2, 5/4, 5/5, 6, 13 and 34 of the European Convention on Human Rights has been determined. There have been 19 cases brought before both domestic courts and the ECtHR, 8 of which were concluded in favour of the Ministry of the Interior, and in 8 of which was found to be in violation of laws. 3 out of 19 cases are in progress. There have been 106 cases brought before domestic courts for the annulment of administrative acts and decisions of the Ministry of the Interior. 58 cases have been concluded in favour of the Ministry of the Interior, whereas violations were determined in 27 cases. 22 cases are in progress.

181. Turkey implements an "open border" policy for Syrians escaping violence in their country and strictly complies with the principle of non-refoulement at the border and in accordance with the international procedures, provides Syrians with "temporary protection" without any discrimination. The "temporary protection" regime is different from that of asylum, and procedures of asylum do not apply here.

182. Syrians benefiting from temporary protection are currently hosted in 22 shelters in Turkey's border cities. Syrians who are accommodated in the shelters are provided with food, non-food items, health and education services as well as psychological assistance, vocational training and social activities.

183. As of 17 March 2014, Turkey has issued "1-year temporary residence permits" for 83,425 Syrians coming to Turkey with their passports. In addition, it is important to register Syrians who enter Turkey illegally, who do not stay at camps, and live across the country by their own means in order to ensure public order and distribution of benefits to be provided for them in an orderly manner.

184. In order to register Syrians who are coming to Turkey, a Fingerprint and Identification System (Automated Fingerprint Registration and Identification System) has been developed. Through this system, demographic and biometric information of foreign nationals are registered.

185. At the first stage, the registration process began in 21 shelters where Syrians are hosted. Registration processes are in progress in 18 coordination centres in Adana, Gaziantep, Hatay, Kahramanmaraş, Kilis, Osmaniye, Mardin, and Şanlıurfa provinces. Biometric registration work has also started in other provinces and districts where a great number of Syrians live.

186. As of 20 March 2014, 410,981 Syrians have been registered in shelters, coordination centres, and provinces. Simultaneously with registration works, a "Foreigner's Identification Card" is issued and delivered to Syrians. The identification cards enable holders to benefit from healthcare and education services and provide convenience in distribution and follow-up of assistances for Syrians.

187. In addition to that, more than 500,000 Syrians who reside outside shelters are also under the protection regime. The total number of Syrians is around 800,000. This number is more than ten times the number of Syrians seeking refuge in all EU countries.

188. Procedures and principles with respect to visits of representatives of international organisations, foreign delegations, non-governmental organisations, and press members are jointly determined by the Ministry of Foreign Affairs, Prime Ministry Disaster and Emergency Management Agency, and the Ministry of the Interior. The United Nations High Commissioner for Refugees (UNHCR) has unrestricted access to all Syrians either in or outside the shelters and is directly involved in the procedures of "voluntary return" from Turkey to Syria.

Question 13: In light of the Committee's previous concluding observations (para. 15), please provide information on the following measures relevant to the State party's compliance with the Convention's requirements on non-return of any person facing a risk of torture:

(a) Measures to ensure access by personnel of the United Nations High Commissioner for Refugees (UNHCR) to all persons in detention and to monitor compliance with the Circular of the Ministry of the Interior providing for such access;

(b) Measures taken to ensure that all detained foreigners have effective access to the asylum procedure, including guaranteed access to lawyers, legal aid for all persons detained, access to judicial review to challenge decisions on asylum applications, and suspension of deportation proceedings during consideration of asylum requests;

(c) Measures to ensure access by independent monitoring bodies to "foreigners' guesthouses" and other removal centres in order to prevent ill-treatment;

(d) Steps taken to construct new guesthouses and removal centres with safe and healthy living conditions in order to address serious overcrowding

189. Foreigners who enter Turkey by unlawful means and make an asylum request are not subject to any legal proceedings and punishment for their unlawful entrance. The same procedure is implemented for them as for those who apply for asylum by making a lawful entrance.

190. Foreigners are provided with necessary information on their administrative detention reasons and length of stay in guesthouses for foreigners. They are also informed in a language they know on their right to access to a lawyer during their stay in the guesthouses and to challenge the decisions of removal and administrative detention in the centre. Furthermore, they can apply to the guesthouse management for the conditions of the guesthouse and the administrative acts carried out against them. They can also file their complaints and requests directly to the officials who periodically visit the guesthouses for foreigners for inspection.

191. A fair, equal and consistent access to asylum procedure is possible for everyone, including illegal immigrants. Foreigners who are caught as illegal immigrants and who apply for asylum while being held in the guesthouse pending removal are released (unless there are any legal obstacles in respect of them) and included in the asylum procedure following a brief evaluation process. They are allowed to meet their legal representatives and UNHCR. 5,383 persons in 2012 and 4,021 persons in 2013 applied for asylum while in guesthouses for foreigners and have been released following the consideration of their application.

192. No asylum seeker or applicant is detained or arrested unless he/she commits a crime. Turkey strictly complies with the principle of non-refoulement.

193. Any objection with respect to administrative acts and decisions is duly considered. There is no restriction to have access to judicial remedies, including the ECtHR.

194. The Human Rights Inquiry Commission of the TGNA, in its 4th meeting on 8 December 2011, has established a Sub-commission entrusted with the task of making observations with respect to the problems of refugees, asylum seekers and illegal immigrants in Turkey.

195. Within this framework, the Sub-commission has carried out examinations in Edirne Guesthouse for Foreigners, Kırklareli Gazi Osman Paşa Guesthouse for Foreigners on 10 May 2012, and İstanbul Kumkapı Guesthouse for Foreigners on 11 May 2012.

196. During the examinations, the members of the Sub-commission have met with governors, mayors and other local administrative authorities, and the illegal immigrants staying in guesthouses. The members of non-governmental organisations dealing with issues with respect to refugees, asylum seekers, and illegal immigrants, namely Human Rights Research Association, Refugees Solidarity Association, Solidarity Association for Asylum Seekers and Migrants, Human Rights Association, Helsinki Citizens' Assembly, Solidarity Association for Human Rights and Oppressed Persons, Human Rights and Freedom and Humanitarian Assistance Foundation, and Amnesty International have also participated in the examinations and made significant contributions to the work of the Sub-commission. A post-examination report was prepared and shared with relevant institutions.

197. Moreover, on 6 and 7 February 2014, the Sub-commission carried out an examination in the guesthouses for foreigners in İzmir and Aydın provinces, observed the physical conditions, and met with the immigrants in the centres.

198. In addition, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment carries out visits to the guesthouses for foreigners during their periodic visits to Turkey.

199. There are 26 active guesthouses for foreigners with 2,172 person capacity in 26 provinces across the country. In coordination with the EU, 6 Admission, Monitoring, and Sheltering Centres are being built in Erzurum, Gaziantep, Van, Kayseri, Kırklareli, and Izmir provinces, and one guesthouse for irregular immigrants is being built in Erzurum province. The said centres that are still under construction will be put into service with the highest level of regional and international human rights standards. Existing centres with low capacity that do not fully meet the necessary physical conditions are planned to be closed once the above mentioned centres are put into service.

Question 14: Please indicate whether the State party undertook measures to review its Aliens legislation in order to introduce a maximum period for the administrative detention of foreign nationals. Please also provide information on measures taken to improve the conditions of detention in the Aliens Detention Centres, mainly in Ağrı Centre, and to ensure a prompt access to health care, in particular regarding minors.

200. The new Law No. 6458 on Foreigners and International Protection was adopted and published in the Official Gazette No. 28615 dated 11.04.2013. With the law, the General Directorate of Migration Administration within the Ministry of the Interior has been established.

201. Administrative detention is regulated in two separate sections, as "administrative detention for removal purpose" and "administrative detention for applicant of international protection" under Articles 57 and 68 of Law No. 6458.

"Administrative detention and duration of detention for removal purposes

ARTICLE 57

(1) Where foreigners within the scope of Article 54 are apprehended by law enforcement units, they shall immediately be reported to the governorate for a decision to be made concerning their status. With respect to those where a removal decision is considered necessary it shall be issued by the governorate. The duration of assessment and decision-making shall not exceed forty-eight hours;

(2) Those for whom a removal decision have been issued, the governorate shall issue an administrative detention decision for those who bear the risk of absconding or disappearing; breached the rules of entry into and exit from to Turkey; have used false or fabricated documents; have not left Turkey after the expiry of the period granted to them to leave without an acceptable excuse; or pose a threat to public order, public security or public health. Foreigners subject to administrative detention shall be taken to removal centres within forty-eight hours of the decision by the [same] law enforcement unit that apprehended them;

(3) The duration of administrative detention in removal centres shall not exceed six months. However, in cases where the removal cannot be completed due to the foreigner's failure of cooperation or providing correct information or documents about their country [of origin], this period may be extended for a maximum of six additional month;

(4) The need to continue the administrative detention shall be regularly reviewed monthly by the governorates, and when consider it necessary. For those foreigners where administrative detention is no longer considered necessary, the administrative detention shall immediately be ended. These foreigners may be required to comply with administrative obligations such as to reside at a given address and report to the authorities in form and periods to be determine;

(5) The administrative detention decision, the extension of the administrative detention period and the results of the monthly regular reviews together with its reasons shall be notified to the foreigner or, to his/her legal representative or lawyer. If the person subject to administrative detention is not represented by a lawyer, the person or his/her legal representative shall be informed about the consequence of the decision, procedure and time limits for appeal;

(6) The person placed under administrative detention or his/her legal representative or lawyer may appeal against the detention decision to the Judge of the Criminal Court of Peace. Such an appeal shall not suspend the administrative detention. In cases where the petition is handed to the administration, it shall immediately be conveyed to the competent Judge of the Criminal Court of Peace. The Judge of the Criminal Court of Peace shall finalise the assessment within five days. The decision of the Judge of the Criminal Court of Peace shall be final. The person placed under administrative detention or his/her legal representative or lawyer may further appeal to the Judge of the Criminal Court of Peace for a review should that the administrative detention conditions no longer apply or have changed;

(7) Those who appeal against an administrative detention action but do not have the means to pay the attorney's fee shall be provided legal counsel upon demand, pursuant to the Legal Practitioner's Law No. 1136 of 19/03/1969.

...

Administrative detention of applicants.

ARTICLE 68

(1) Applicants shall not be subject to administrative detention solely for lodging an international protection claim;

(2) Subjecting applicants to administrative detention is an exceptional action. Applicants may be subject to administrative detention only under the following cases:

(a) For the purpose of determination of the identity or nationality in case there is serious doubt as to the accuracy of the information provided;

(b) For the purpose of being withheld from entering into Turkey in breach of terms [and conditions] of entry at the border gates;

(c) when it would not be possible to identify the elements of the grounds for their application unless subjected to administrative detention;

(ç) When [the person] poses a serious public order or public security threat.

(3) The requirement for administrative detention shall be assessed on case by case basis. With respect to cases mentioned in the second paragraph, prior to an administrative detention, priority shall be given during the assessment to whether the residence and notification obligation stipulated in Article 71 shall be sufficient. The governorates may determine alternatives for administrative detention. Where such measures are not sufficient, administrative detention shall be applied;

(4) The administrative detention decision, including its reasons and duration, shall be notified to the person subject to administrative detention or to his/her legal representative or lawyer in writing. If the person subject to administrative detention is not represented by a lawyer, the person or his/her legal representative shall be informed of the consequences of the decision and the appeal procedures;

(5) The period of administrative detention for applicants shall not exceed thirty days. The actions related to applicants subject to administrative detention shall be finalised as soon as possible. Administrative detention shall immediately be ended when its conditions no longer apply;

(6) At every stage of the administrative detention, it may be lifted by the authority that has issued the decision and [the person] may be asked to fulfil the obligations stipulated in Article 71 or other measures;

(7) The person placed under administrative detention or his/her legal representative or lawyer may appeal against the detention decision to the Judge of the Criminal Court of Peace. Such an application shall not suspend the administrative detention. In cases where the petition is handed to the administration, it shall immediately be conveyed to the competent Judge of the Criminal Court of Peace. The Judge of the Criminal Court of Peace shall finalise the assessment within five days. The decision of the Judge of the Criminal Court of Peace shall be final. The person placed under administrative detention or his/her legal representative or lawyer may further appeal before the Judge of the Criminal Court of Peace should the administrative detention conditions no longer apply or have changed;

(8) The person subject to administrative detention pursuant to second paragraph may receive visitors, where the relevant principles and procedures shall be stipulated in a Directive. The person subject to administrative detention shall be granted access to legal representative, lawyer, notary public and United Nations High Commissioner for Refugees officials."

202. In addition, within the framework of the Circular No. 2010/67, the governorate issues a separate approval for admission for each foreigner to be accepted to the removal centres.

203. Concerning the Removal Centre within the Department for Foreign Nationals of Ağrı Security Directorate, works have been carried out to improve the conditions of the centre.

204. Accommodation, food, health, and other expenses related to any need of foreigners during their stay in Removal Centres are covered by the State. Works have been conducted in cooperation with non-governmental organisations regarding treatment and psychological support.

205. Unaccompanied children taken under administrative detention are settled in Provincial Social Service and Child Protection Agencies before their transfer to a Removal Centre. Accompanied children have the opportunity to spend their time playing games with their families. Projects aiming to enable more active use of cultural and activity rooms in the centres are ongoing.

Question 15: Please indicate whether the State party has provided or received diplomatic assurances against torture or the equivalent thereof, during the reporting period, and if so, the number of cases as well as any instances in which the State party has made such assurances. What are the minimum contents of any such assurances, and do they provide for post-return monitoring?

206. The procedure to be followed by the judicial authorities on extradition is laid down in Circular No. 69/4 of the Ministry of Justice.

207. Accordingly, the returning of defendants and convicts and granting such requests by foreign judicial authorities are subject to applicable bilateral and multilateral agreements which are binding for Turkey and the State concerned. If no such agreement exists, these operations are carried out pursuant to customary international law and the principle of reciprocity.

208. The legal frameworks which govern the field of extradition are: Article 38 of the Constitution; Article 18 of the Criminal Code; bilateral agreements with various States; the European Convention on Extradition and the Second Additional Protocol thereto; and a number of multilateral conventions by international bodies on drugs, money laundering, cross-border organized crime, corruption and fighting terrorism, which contain provisions relating to extradition.

209. In case Turkey is the requesting State, a requisition for extradition is drawn up by the relevant chief public prosecutor if the case is at the investigation or sentence execution stages, and by the relevant court if the case is at prosecution stage.

210. In case another State is requesting extradition, the requisition and its annexes submitted to the Ministry of Justice is duly checked and forwarded to the chief public prosecutor's office within whose jurisdiction the person resides, in order for the legal actions to be determined.

211. The following "assurances" are contained in all requisitions drawn up by the judicial authorities when requesting a suspect, defendant or convict:

> "The offense the suspect is charged with is not of political or military nature.
>
> The suspect is entitled to all legal defense rights laid down in domestic law and the international conventions to which Turkey is a party.
>
> Turkey is a party to the European Convention on Human Rights and pursuant to Article 34 of the said Convention, individual applications can be lodged against Turkey. In this context, the convict is entitled to file an application with the European Court of Human Rights at the sentence execution stage, to challenge the final judgment given concerning his/her case.
>
> In case it becomes evident only after extradition that the person had been involved in another offense committed within Turkish jurisdiction prior to the date of extradition, a request for consent shall be submitted to the competent authorities of your country so that the convict can be prosecuted for that offense under the 'rule of speciality'.
>
> In case your competent authorities refuse to give consent, the convict shall not be prosecuted for any such additional offenses other than those which the extradition is based on."

212. As to the cases requiring different treatment, such as diplomatic assurances against torture or the equivalent thereof, extradition operations are carried out in accordance with applicable bilateral and multilateral agreements which are binding for Turkey and the State

concerned. If no such agreements exist, these operations are carried out pursuant to customary international law and the principle of reciprocity.

213. Therefore, requisitions and their contents are assessed with due care regarding certain countries, so as to determine whether diplomatic assurances are required against torture or equivalent treatment.

214. Statistical information is not available as to the number of cases where diplomatic assurances were provided or requested during the reporting period of 2010-2014. However a couple of examples during the reporting period are cited below.

215. Turkey has requested a number of assurances from country X in the context of the following extradition cases:

(a) Mr. A.A. (initials used for privacy reasons) had been sentenced to 10 years' imprisonment, a judicial fine of 40,000,000 Rials and 74 lashes on the charge of "drug trafficking" by country's courts. The relevant country's authorities submitted a requisition, stating that the person had escaped from prison and was held in a prison in Turkey. The following assurances were requested for the extradition procedure to commence, pursuant to Turkey's obligations emanating from the European Convention on Human Rights:

- No judicial or administrative proceedings shall be carried out for any offense other than drug trafficking;
- The returned person's right to life shall in no way be undermined and he shall not be subjected to torture or ill-treatment;
- The inhuman sentence of 74 lashes shall not be executed;
- Turkish diplomatic missions in the said country shall be allowed to visit Mr. A.A. and monitor the authorities' compliance with their assurances;

(b) Ms. M.Y.F. who had been wanted by the country X authorities on the charge of embezzlement, was arrested in Turkey. Upon the said country's authorities' request for extradition, the following assurances were requested by the Government of Turkey:

- No judicial or administrative proceedings shall be carried out for any offense other than embezzlement;
- The returned person's right to life shall in no way be undermined and she shall not be subjected to torture or ill-treatment;
- Turkish diplomatic missions in the said country shall be allowed to visit her and monitor the authorities' compliance with their assurances;

(c) Mr. M.V. who had been wanted by the country X authorities on charges of illegal border crossing and voluntary manslaughter, was arrested in Turkey. Upon the said country's authorities' request for extradition on 4 March 2012, the following assurances were requested by the Government of Turkey:

- No judicial or administrative proceedings shall be carried out for any offense other than illegal border crossing and voluntary manslaughter;
- The *qisas* (retaliation) penalty shall not be imposed;
- The returned person's right to life shall in no way be undermined and he shall not be subjected to torture or ill-treatment;
- Turkish diplomatic missions in the said country shall be allowed to visit him and monitor the authorities' compliance with their assurances;

(d) The country Y has requested the following assurances from the Turkish authorities in the following case:

- Within the context of a criminal case before Antalya 2nd Assize Court, Mr. A.A, a Z country national had been wanted for the offenses of voluntary manslaughter and extortion. An INTERPOL Red Notice had been issued in respect of him. Upon his arrest in Y country on 3 May 2014, the relevant Chief Public Prosecutor's Office requested the following assurances from the Turkish authorities:

  - The person shall not be prosecuted or sentences shall not be executed other than those which the extradition is based on, save for the rule of speciality laid down in Article 14 of the European Convention on Extradition;
  - He shall not be extradited to any third State without the consent of the country Y;
  - He shall not be subjected to torture or ill-treatment.

  The country Y's authorities also asked for such information as a detailed description of the crime, and its time and location. These assurances had already been contained in essence in the Turkish requisition. Nevertheless, the country Y's authorities were assured that the returned person shall only be imposed the sentence which is the subject of the present extradition and would be allowed to leave Turkey following his release in accordance with the right to travel. He would not be deported or removed to a third country after his release without informing or obtaining permission from the country Y's authorities. The country Y's authorities were also reminded that Turkey is party to the European Convention on Human Rights and has guaranteed the right to individual application to the European Court of Human Rights;

(e) D.A., who had been charged with "aiding the terrorist organization of PKK/KONGRA-GEL" and was wanted by way of a Red Notice, was requested from the country R. The country R's authorities submitted that D.A. had asked the court not to extradite him and put forward a number of accusations against Turkey, claiming that, being of Kurdish origin, he would face torture, ill-treatment, coercion and persecution in Turkish prisons if extradited.

216. The following explanations were sent in response to the country R's authorities:

217. The procedure and principles to be followed concerning sentence execution are laid down in the Law on the Execution of Sentences and Security Measures (LESSM) and the statutes, regulations and circulars issued accordingly. Article 2 of the said Law provides:

> "(1) Rules relating to the execution of sentences and security measures shall be imposed without privilege and without discrimination on the basis of prisoners' race, language, religion, creed, nationality, color, gender, birth, philosophical belief, national or social origin and political or other ideas or convictions, economic power or other social position;
>
> (2) Cruel, inhuman, degrading or humiliating treatment may not be used in the execution of sentences and security measures."

218. Pursuant to the provisions stated above, no differences in treatment or privileges are allowed and every prisoner enjoys equal rights set forth in the legal framework.

219. In a number of its judgments concerning the risk of torture, ill-treatment and political prosecution in cases of extraditions, the European Court of Human Rights has warned about reliance to diplomatic assurances provided by a State where torture is common and persistent. Therefore, whether diplomatic assurances are necessary against

torture or the equivalent thereof are assessed with diligence. On this matter, Turkey asks for certain diplomatic assurances from the State requesting extradition where such risks exist, taking into account her obligations emanating from the European Convention on Human Rights and carries out follow-up and monitoring actions even after such assurances have been obtained.

Article 4

Question 16: With reference to the Committee's previous concluding observations (para.7), please provide information on measures taken to ensure that all perpetrators of torture are prosecuted under article 94 ("torture") or 95 ("aggravated torture") of the Penal Code. Please also indicate whether guidelines have been adopted to determine when article 256 ("excessive use of force") or 86 ("intentional injury") of the Penal Code should be used to prosecute ill-treatment instead of article 94.

220. All perpetrators of torture are prosecuted under Articles 94 and 95 of the Penal Code. In case of participation of a public officer in the crime of torture, other persons who participate in committing of the crime are also punished with the same punishment as the public officer.

221. In pursuance with the "Principle of Legality in Offence and Punishment" laid down in Article 2 of the Penal Code, a person may neither be punished nor be imposed cautionary judgment for an act which does not explicitly constitute an offence within the definition of the Law. Furthermore, application of punishments and security precautions other than those stipulated in this Law is not allowed. No criminal punishment may be imposed based on regulatory transactions of the Administration. Consequently, issuing a circular or guidelines, which is an administrative proceeding, to determine the elements of an offence that was already regulated and laid down in the Penal Code is not possible.

Question 17: Please provide statistical information on prosecutions of officials for torture or ill-treatment since the last review, specifying the title and rank of each defendant, the article(s) under which the defendant was charged, whether the defendant was convicted, and the sentence awarded in each case. Please also provide updated information on the status of retrial (following a September 2011 judicial decision overturning the convictions) of the persons convicted in 2010 of the death in detention of Engin Ceber in 2008, which reportedly resulted from abuse by security and prison officials.

222. Charts presenting the prison sentences and their durations given by criminal courts pursuant to articles 86, 94, 95, and 256 of Law No. 5237 between 2010 and 16.04.2014 against those who were serving as gendarmerie officer, police officer, colonel, admiral, sergeant, police chief, general, soldier, police superintendent, commissioned officer, and specialized sergeant are provided in annex 5. The Chart also includes data concerning decisions of non-prosecution and/or suspension of the pronouncement of the judgment given in respect of 54 officials between 01 January 2009 and 31 March 2014. Proceedings with respect to 21 officials are still in progress.

223. The Gendarmerie Human Rights Inquiry and Evaluation Centre was established on 26 April 2003 to examine, evaluate and investigate allegations of human rights violations that may occur during the performance of duty by gendarmerie personnel, and if the allegations are true, to commence necessary legal proceedings. Citizens can make applications to the Centre in person, as well as through a petition, letter, phone, internet, or fax on a 24/7 basis.

224. The Gendarmerie Human Rights Inquiry and Evaluation Centre received 2,926 applications between 26 April 2003 and 1 April 2014. 357 of these applications were within the purview of the Gendarmerie Human Rights Inquiry and Evaluation Centre, whereas 2,569 applications were beyond purview of the centre. As a result of the administrative investigations carried out with respect to applications within the purview of the Centre, it has been determined that the allegations in 239 applications were not true, 110 applications have been referred to judicial authorities, and relevant officials have been punished by their disciplinary superior with respect to 8 applications.

225. Concerning the case of Engin Ceber, judicial and administrative investigations have been carried out against 69 persons with respect to torture that occurred between 29.09.2008 and 07.10.2008 in Metris 1 and 2 T-Type Closed Prison and the death of detainee Engin Ceber in the hospital where he was taken. As a result of the judicial investigation, a criminal case was initiated against 43 persons, a decision of non-prosecution was rendered on 26 persons, 19 officials were dismissed, 6 persons were arrested, a decision of dismissal from civil service was rendered on 4 persons, a request for the penalty of dismissal from civil service for 3 persons was rejected, and a decision of suspension of promotion was rendered on 3 persons.

226. As a result of the administrative investigation, a reprimand penalty was imposed on 42 persons, a decision of non-disciplinary punishment was rendered on 15 persons, and a salary reduction penalty was imposed on 2 persons.

227. In addition, the decisions of acquittal that were rendered on behalf of the defendants Ö.B and A.U. and the decision of acquittal that was rendered on defendant M.İ by Bakırköy 4th Assize Court have been reversed by the Court of Cassation. The decisions concerning the defendants M.Ç. and Y.U. have been upheld with changes. The Court of Cassation has upheld all decisions with respect to all other defendants.

228. All the decisions that were upheld (with and without changes) became definitive, except the decision rendered on F.K. due to an objection to the decision which was referred to the Court of Cassation for further examination.

229. Following the decision of reversal on defendants Ö.B., A.U. and M.İ., the file has been registered under No. 2013/378 of the Bakırköy 4th Assize Court and the trial is in progress.

Question 18: In light of the previous concluding observations (para. 8), please describe measures to ensure that special permission is not needed to prosecute high-level officials for torture or ill-treatment, and indicate whether article 161, paragraph 5, of the Criminal Procedure Code has been amended and article 24 of Law No. 5353 of 25 May 2005 repealed.

230. Paragraph 5 of Article 161 of the Code of Criminal Procedure has not been amended. Article 24 of Law No. 5353 has not been repealed. However, special permission is not required to prosecute high-level officials for torture and ill-treatment. In terms of such offences, the provisions of Law No. 4483 on the Prosecution of Civil Servants and other Public Officials are applied and an *ex officio* investigation is carried out.

Question 19: In light of the previous concluding observations (para. 24.), please indicate whether the Penal Code has been amended so that torture is not subject to a statute of limitations.

231. By Article 9 of Law No. 6459, dated 11.4.2013, Article 94 of the Penal Code has been amended and it has been stated that torture shall not be subject to a statute of limitations.

Article 10

Question 20: In light of the Committee's previous concluding observations (para. 25), please provide information on new educational and training programmes implemented to ensure that officials are fully aware of the Convention and that breaches will not be tolerated. Please also indicate whether the State party has developed a methodology to assess their effectiveness, and if so, provide information on it.

232. In Police Professional Training Centres affiliated to the General Directorate of Security, courses on international and regional conventions on prevention of torture, including the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and on the offense of torture are given under 47 hours Basic Law course in police the training curriculum for students receiving police vocational training.

233. Moreover in all trainings (Special Field Basic Education) that are laid down in clause (a) of Article 22 of the In-Service Training Regulation, there are "Human Rights" and "Police Professional Training" courses of minimum two hours. In "General Development Trainings" conducted for each official with any grade and rank, "Human Rights" and "Police Professional Training" courses are compulsory.

234. Within the scope of "On-Site Training Activity" on human rights that was organised between 1 January 2009 and 31 March 2014 within Gendarmerie General Command, 2,217 officials have been trained and on-site inspections have been carried out in 549 detention centres.

235. The following courses are provided within the framework of trainings and activities with respect to human rights in Gendarmerie Schools Command:

- In 2012-2013 academic year, within the scope of human rights, 36 hours Human Rights course were held in Gendarmerie Officer Basic Training and Gendarmerie Non-Commissioned Officer Basic Trainings. In addition, 83 hours Penal Code course, 48 hours Criminal Procedure Code course, and 36 hours Human Rights course were held in Gendarmerie Non-Commissioned Officer Vocational High School;
- In 2013-2014 academic year, within the scope of human rights, 72 hours Human Rights course in Gendarmerie Officer Basic Training and 66 hours Human Rights course were held in Gendarmerie Non-Commissioned Officer Basic Trainings. In addition, 64 hours Penal Code course, 32 hours Criminal Procedure Code course, 45 hours Human Rights course, and 15 hours course on "Prevention of Domestic Violence against Women" were held in Gendarmerie Non-Commissioned Officer Vocational High School;
- Within the scope of in-service trainings, the officials are provided with courses between 2 and 20 hours with respect to "Gendarmerie Human Rights Inquiry and Evaluation Centre", "Measures to be taken for Human Rights", Combating Violence Against Women and Children", "Performance Criteria of Law Enforcement Officers with regard to Human Rights" and "Human Rights".

236. In order to prevent ill-treatment in prisons that are under the authority of the Ministry of Justice, human rights courses are provided by conferences, seminars, pre-vocational and in-services trainings carried out for officials with any grade and rank. Moreover, as of 2012, newly recruited custody officers serve as trainees until they complete their theoretical training in education centres and prisons for 5 months. Human rights, law on criminal execution, and psychology courses are provided in these trainings, so that

custody officers start their duty fully equipped and informed with respect to their profession.

Question 21: Please discuss efforts since the last review to train all professionals involved with detainees and documenting and investigating torture on the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (İstanbul Protocol), and the results of such training. Please clarify whether the İstanbul Protocol is used in asylum determination procedures.

237. The Ministry of Health provided training on the İstanbul Protocol to professional groups (4,730 personnel) working on the investigation and documentation of torture.

238. In accordance with articles 4, 5, 6, and 30 of 1994 Refugee/Asylum Regulation, officials who put asylum applications into process, interview applicants, conduct transactions, examine applications, and who are responsible to take decisions are assigned among those who have knowledge of human rights, international protection, and refugee law.

239. Therefore, the personnel to be assigned are chosen among those who have received educational seminars, courses and training which are organized in cooperation with the EU countries and international agencies and institutions.

240. Furthermore, psychologists and social service experts are made available during interviews with asylum applicants qualified as sensitive groups such as unaccompanied minors and single women.

241. While evaluating the interviews s/he made, the interviewer takes account of the report of expert who has participated in the interview. The foreigners in question are placed in dormitories affiliated to Ministry of Family and Social Policies.

Article 11

Question 22: As requested by the Committee in its previous concluding observations (para. 16), please indicate whether the State party has adopted formal regulations explicitly authorizing civil society representatives, lawyers, medical personnel, and members of bar associations to undertake independent, unannounced visits to places where persons are deprived of their liberty, including prisons, police stations, psychiatric facilities and mental hospitals, and provide the number of visits undertaken by them. Please also provide information about the number of visits, announced and unannounced, undertaken by official bodies with a mandate to inspect places of detention during the reporting period, describe any findings or recommendations concerning treatment of detainees or prison conditions that could amount to torture or ill-treatment, and indicate the follow-up measures undertaken in response.

242. Prisons are subject to supervision by both international and national agencies and institutions. It is explicitly stressed in the legislation of institutions having supervisory powers and in criminal execution regulations that the institutions in question may pay a visit to prisons without a need to grant prior permission. In this respect, for instance, Article 7 of Law No. 4681 on Prison and Detention Center Monitoring Boards states that "the Monitoring Board can visit the relevant prison or detention facility whenever it is considered necessary, at least once in two months" and it is not necessary for the monitoring boards to have prior permission.

243. National supervision of prisons is carried out by officials of the General Directorate of Prisons and Detention Centers of the Ministry of Justice, Chief Public Prosecutors,

Public Prosecutors in charge of the prison, inspectors of Ministry of Justice, and Prison Controllers both periodically and without notice; applications and complaints, if any, are inquired on-site.

244. The Monitoring Boards for Prisons and Detention Centers which were established by Law No. 4681 are composed of civil society members. Between 01.01.2012 and 31.12.2012, 369 prisons were visited by 136 monitoring boards for 1,366 times and consequently, 507 reports were prepared. 1,345 suggestions were made in these reports, 964 of which were accomplished. The accomplishment rate for these suggestions is 71.67%.

245. Military prisons and detention centers are inspected by the military justice inspectors bearing the status of military judges, military prosecutors, legal advisors and commanders to whom military prisons and detention centers are affiliated to and post-inspection results are reported to the relevant authorities.

246. Prisons are also supervised by the Human Rights Inquiry Commission of the TGNA and the Human Rights Institution of Turkey.

247. The Human Rights Inquiry Commission carries out its investigations by means of its subcommittees. The Subcommittee of Penal Institutions and Detention Centers is a permanent subcommittee which carries out investigations and reports its findings and suggestions concerning its visits to the military and civil prisons, detention centers and juvenile reformatories throughout the country. These visits may be made either upon the petitions received from prisons or specific cases that come to the attention of the public.

248. In this context, the Commission visited 36 prisons in the 23rd Legislative Session (23.7.2007-12.6.2011) and 34 prisons in the ongoing 24th Legislative Session that began on 28.6.2011. The Commission pointed out the findings of "ill-treatment" in the prisons it visited; nevertheless, the number of these findings is very low. Other findings indicate over-crowding; strict interpretation of laws and regulations; practices of over-discipline; showing unnecessary vigilance to security concerns in the distribution of perodicals and non-periodicals to convicts and detainees; prevention of right to petition; requests to be transferred to prisons located near the relatives' domicile; failures in medical treatments and problems in transfer to hospitals; difficulties in obtaining items needed from outside; limited hot-water access; long-term delays in visitors' entrance; arbitrary practice of naked body search, etc. The reports on findings and suggestions are sent to the relevant institutions including the Ministry of Justice. By means of these inspections, contributions have been made to the improvement of physical conditions in numerous prisons.

249. Regarding military prisons and detention centers, the Human Rights Inquiry Commission and the sub-commission of the TGNA made examinations in:

- Land Forces Command Military Prison and Detention House on 24 February 2010 (Ankara);
- First Air Forces Command Military Prison and Detention House on 26 February 2010 (Eskişehir);
- Third Corps Command Military Prison and Detention House on 17 March 2010 (Istanbul);
- Aegean Army Command Military Prison and Detention House on 6 January 2011 (Izmir);
- Fifth Armored Brigade Command Military Prison and Detention House on 13 January 2012 (Gaziantep).

In these reports:

(a) Military prisons and detention centers' physical conditions, sanitation, health conditions and medical examination, number of convicts and detainees which is lower than the capacity of the prisons, food and hot water facilities, standards of right to communication and non-existence of any torture and ill-treatment allegations were welcomed and appreciated;

(b) Necessary legal changes were made upon criticisms regarding the uniform clothing of convicted and detained private soldiers and non-commissioned officers as well as the room confinement penalty given by the disciplinary authorities;

(c) There are not any findings on torture or ill-treatment.

250. Provincial and District Human Rights Boards can also visit prisons in their working region to examine allegations of human rights violations.

251. Furthermore, information regarding the visits made to prisons by independent persons such as the representatives of NGOs, lawyers, bar members, and medical personnel (in 2011, 2012 and 2013) is provided in annex 6.

Question 23: With reference to the Committee's previous concluding observations (para. 17), please provide information on measures taken to:

(a) Bring an end to reported excessive pretrial detention and overcrowding, including by encouraging the judiciary to consider alternative measures to deprivation of liberty. In this regard, please provide data on the prisoner capacity and the actual number of imprisoned persons at the places of detention in the State party. Please indicate the total number of detained persons held in remand detention;

(b) Address the shortage of medical personnel in prison facilities and ensure access to adequate health care for ill prisoners, including whether sentences are deferred. Please also address the measures taken to ensure the health of detainees on hunger strike;

(c) Restricting the privileges of prisoners in solitary confinement relating to group activities to exceptional and well-defined situations only;

(d) Ensure the separation of children, including girls, from adults in detention.

252. With the purpose of solving the problem of overcrowding of prisons and making the alternative methods for prison sentence functional, on 11 April 2012, Law No. 6291 on "Amending the Law on the Execution of Punishments and Security Measures and the Law on Probation, Help Centres and Protection Board" came into force. By this law:

(a) Remaining punishments of the convicts displaying good behavior and who serve the last six months of their punishments uninterruptedly in open prisons or complete 1/5 of their term of punishment in juvenile reformatories, can be released on probation within at most one year;

(b) Remaining punishments of the convicts displaying good behaviour and who could not leave the open prisons for reasons beyond his/her will although conditions occur for their leave or transferred back to a closed penal institution for this reason and are expected to be released on probation within at most one year may be executed in the form of probation.

253. It has been made possible for minor convicts, female convicts who have children aged 0-6 and convicts who could not maintain their lives on their own due to a serious disease, disability or old age to benefit from probation in a broader scope. In this context, as

of 31.03.2014, the number of convicts who have been released from prisons the execution of which was ruled through the implementation of probation measure is 164,472.

254. Furthermore, by Law No. 6352 on the "Amendment of Certain Laws to Increase the Efficiency of Judicial Services and the Suspension of Penalties and Trials Regarding Crimes Committed via Press" (dated 5 July 2012), the upper limit on the judicial control measure defined in Article 109 of Code of Criminal Procedure No. 5271 was abolished. Prior the amendment, judicial control measures may only be executed for crimes requiring imprisonment for at most three years. With the amendment, courts can decide that the suspect or accused be taken under judicial control instead of detention regardless of the term of imprisonment. Moreover, measures of "not leaving the house, not leaving a specific residential area and not going to designated places or areas" have been added to existing judicial control measures.

255. With these legal amendments, not only the scope and efficiency of alternative measures for imprisonment have been extended, but also a large number of prisoners are now either released from prisons or are not put into prisons in the first place due to judicial control measures imposed on them.

256. In the context of ongoing works on measures to decrease the rate of imprisonment, international legislation and best practices are examined.

257. Moreover, by 2017, it is planned that 194 new prisons will be put to service, 163 district prisons that are not in accordance with contemporary execution regime will be closed and, by the end of 2017, it is intended that the capacity of prisons will be increased to 254.161 persons and the problem of overcrowding will be solved.

There are 366 prisons in Turkey, and the total capacity of these institutions is 157,063. As of 11.04.2014 there are 152,208 convicts and detainees in these prisons.

258. The table showing the location and capacities of military prisons and detention centers and the number of detainees/convicts as of December 2013 is below:

Table indicating the location and capacities of military prisons and detention centers

No.	*Military prison and detention center*	*Location*	*Capacity*	*Number of convicts detainees (December 2013)*
1	Land Forces Command Military Prison and Detention Centre	Ankara	315	114
2	First Army Command Military Prison and Detention Centre	Selimiye/İstanbul	50	54
3	Second Army Command Military Prison and Detention Centre	Malatya	83	20
4	Third Army Command Military Prison and Detention Centre	Erzincan	54	5
5	Aegean Army Command Military Prison and Detention Centre	Şirinyer/izmir	85	70
6	Second Corps Command Military Prison and Detention Centre	Çanakkale	132	9
7	Third Corps Command Military Prison and Detention Centre	Hasdal/İstanbul	186	74
8	Fifth Corps Command Military Prison and Detention Centre	Çorlu/Tekırdağ	96	19
9	Sixth Mechanized Infantry Division	Adana	100	20

No.	*Military prison and detention center*	*Location*	*Capacity*	*Number of convicts detainees (December 2013)*
	Command Military Prison and Detention Centre			
10	Seventh Corps Command Military Prison and Detention Centre	Diyarbakır	120	44
11	Eigth Corps Command Military Prison and Detention Centre	Elazığ	100	8
12	Ninth Corps Command Military Prison and Detention Centre	Erzurum	106	13
13	Gendarme Corps Command of Public Security Military Prison and Detention Centre	Van	50	7
14	23th Gendarme Border Command Military Prison and Detention Centre	Şırnak	50	0
15	Mountain Command School and Training Center Command Military Prison and Detention Centre	Isparta	50	21
16	5th Armored Brigade Command Military Prison and Detention Centre	Gaziantep	59	33
17	5th Infantry Training Brigade Command Military Prison and Detention Centre	Sivas	61	10
18	Fleet Command Military Prison and Detention Centre	Gölcük	52	28
19	North Commander Sea Area Military Prison and Detention Centre	Kasımpaşa/İstanbul	54	0
20	1st Air Forces Command	Eskişehir	62	25
Total			**1865**	**574**

259. In line with the "Protocol on Health Care Delivery in Penal Institutions" signed between the Ministry of Health and the Ministry of Justice on 30.04.2009, health units in Ankara-Sincan, İstanbul-Silivri ve İstanbul-Maltepe Penal Institution Campuses provide services as "penal institution district polyclinic" affiliated to the hospitals that are considered appropriate by the Ministry of Health. Also in other prisons, according to their capacities, doctors are assigned by Provincial Health Directorates on certain days of the week for certain periods.

260. In the course of family medicine practice and appointment of doctors, proceedings are carried out pursuant to Article 5 of the said Protocol which states that "Medical services are provided by family medicine practice to every penal institution sheltering at least 1000 detainees/convicts. Maximum three family physicians are appointed for the institutions in which the number of detainees and convicts is less than 1000. The family physician offers mobile health care services. In provinces where family medicine practice is not available, medical health care service is offered by doctors for five full days per week in the institutions in which the number of convicts and detainees is over 1000, for five half days per week in the institutions in which the number of convicts and detainees is between 500 and 1000, and for 2 half days per week in the institutions in which the number of convicts and detainees is under 500."

261. Referrals to hospital are made at the doctor's discretion in accordance with the medical necessities. In case of emergency where there are not any doctors, the

administrative authority in the institution may carry out the referral proceedings. Although there is an immense workload at hospitals, convicts and detainees enjoy, within the bounds of possibility, the right of priority for security reasons.

262. In cases of emergency, 112 Emergency Service is given a prompt notice, necessary medical intervention is made by the emergency service personnel in the penal institution or the sick detainee/convict is transferred by ambulance to state or university hospital if the medical personnel deems it necessary.

263. Accordingly, there is no discrimination in providing medical services to prisoners in the prisons and to free citizens throughout the country.

264. As regards protecting the health of convicts and detainees who are on hunger strike, proceedings are initiated in accordance with Article 82 of Law on the Execution of Sentences and Security Measures which is entitled "Convict's refusal of food and beverage given to him" stating:

> "(1) If convicts insist on refusing the food and beverages given to them for whatever reason, they shall be informed by the doctor at the penal institution about the harmful consequences of their act and the physical and mental damage it may cause to them. The psycho-social service unit shall also make efforts to convince them to give up this practice and, if these efforts fail to produce results, their nutrition shall be started in an appropriate environment according to the regime determined by the institution doctor.
>
> (2) Regarding any convicts who refuse food and carry on a hunger strike or "death fast" and who are determined by the institution doctor to be in terminal danger or to have lost consciousness despite the measures taken and the efforts made under the first paragraph, medical tests, treatment, nutrition and other measures for examination and diagnosis shall be implemented in the institution or, where this is not possible, by immediately taking them to a hospital, regardless of their will, provided that such measures and interventions do not pose a danger to their health and life."

265. Furthermore, in 2012, 12 and in 2013, 374 new health officers were employed by the Ministry of Justice to assist the medical personnel. With the employment of these officers, significant progress was made in providing penal institutions with permanent health officers.

266. The term "convicts and detainees in solitary confinement" does not exist in the Turkish legislation. In Article 44 of Law No. 5275 on the Execution of Penalties and Security Measures, the disciplinary punishment of solitary confinement is regulated in detail and the actions for which this punishment is given is stated. Accordingly, the said disciplinary punishment could be executed up to 20 days. The convict in solitary confinement is not prevented from communicating with authorities and legal representatives; however, they are not permitted to join group activities until the execution of disciplinary punishment ends.

267. The execution regime regarding the convicts who are given aggravated life imprisonment is regulated in Article 25 of Law No. 5275. Under the said provision, the convicts shall be accommodated in single rooms; could walk and do outdoor exercises for one hour per day; depending on risk and security considerations and on his effort and good behaviour in rehabilitation and treatment activities, the outdoor exercise time may be extended and s/he may be allowed, to a limited extent, to have contact with other convicts who stay in the same unit with him/her; s/he may carry out an artistic or occupational activity which is possible for the environment s/he is held and is considered appropriate by the administrative board.

268. Furthermore, in paragraph (a) of Article 2 "Training and Education Activities in High Security Penal Institutions, Principles Regarding Social-Cultural and Sports Activities" of Circular no 46/1 entitled Training and Improvement Procedures Concerning Juvenile and Adult Convicts and Detainees and Other Provisions, it is stated that "the convicts who were given aggravated life imprisonment shall primarily benefit from individualized training-education, social-cultural and sporting programs. In consequence of the programs applied, on their efforts and good behaviours and by the decision of administrative and monitoring board, they shall benefit from training-education, social-cultural and sporting programs with a group of convicts who stay in the same unit with them."

269. Under the relevant national and international legislation (Article 11, 15, 111 of Law No. 5275, Article 37 of the Convention on the Rights of the Child, Article 17 and 29 of the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) and Article 13 and 26 of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)), it is a legal obligation that juveniles shall be kept separate from adults and detainees shall be kept separate from convicts. In Turkey, detained juveniles are kept in separate closed prisons. In provinces where the number of children is limited and there are not any closed prisons, they are kept separately from adults in different sections of the penal institutions allocated for juveniles. In the event that there is not a separate section for female juveniles in juveniles' closed penal institutions, they are held in sections reserved for them in women's closed penal institutions. Convicted juveniles are kept in juvenile reformatories. Also, detainees are held separately from convicts, and juveniles are kept separately from adults.

270. There are three juvenile closed penal institutions in Turkey for those whose trial is pending (in Ankara, İstanbul, İzmir) and two juvenile reformatories for those whose penalties are final (Ankara, Denizli Bozkurt Women Open and Children Training House).

271. In an attempt to increase the number of juvenile penal institutions, construction of İstanbul Ümraniye Juvenile Reformatory was completed in 16 January 2014. Works concerning equipment, furnishing and personnel appointments to the said institution are underway. Among other juvenile prisons, İzmir Juvenile Reformatory is planned to be put into service in 2014, Elazığ Juvenile Reformatory in 2017, Erzurum Juvenile Reformatory in November 2014, Diyarbakır Juvenile Closed Penal Institution in 2014, Hatay, Kayseri, Mersin/Tarsus, Tekirdağ/Çorlu Juvenile Closed Penal Institutions in 2016 and Konya Closed Penal Institution in 2017.

Question 24: With regard to the Committee's previous concluding observations (para. 17), please describe any legal review undertaken by the State party of articles 15-28 of the Law on the Right to Access Information (Law No. 4982), which could restrict access to information about detention facilities, in order to assess their compatibility with the Convention.

272. The Law on the Right to Access to Information does not contain restrictions which can be considered incompatible with the Convention.

Articles 12 and 13

Question 25: With reference to the Committee's previous concluding observations (paras. 7 and 12), please provide detailed data on complaints relating to torture and ill-treatment made during the reporting period, disaggregated by body receiving the complaint; and ethnicity, age and sex of the alleged victim. Please indicate how many of these complaints were investigated, and by what authority, how many led to

criminal prosecution, and how many prosecutions resulted in convictions, and any penal or disciplinary sanctions applied.

273. Statistical information regarding ethnic origin, age and gender of the individuals who made allegations of ill-treatment are not kept.

274. The tables showing the number of Security General Directorate Personnel regarding whom administrative and judicial proceedings are conducted under Articles 256, 94 and 95 of the Turkish Penal Code (TPC) are below.

The number of personnel in respect of whom disciplinary proceedings have been conducted under article 256 of the Turkish Penal Code (article 245 of the former penal code) on the charge of exceeding the limits of the power to use force

Decision	*2011*	*2012*	*2013*	*Total*
No grounds for imposing any penalty	817	315	27	1,159
File discontinued	122	42	6	170
Short term suspension from promotions (4, 6 or 10 months)	6	19	1	26
Investigation pending	7	50	265	322
Long term suspension from promotions (12, 16, 20 or 24 months)	5	11	0	16
General Total as of 11.09.2013	**957**	**437**	**299**	**1,693**

The number of personnel in respect of whom judicial proceedings have been conducted under article 256 of the Turkish Penal Code (article 245 of the former penal code) on the charge of exceeding the limits of the power to use force

	2011	*2012*	*2013*	*Total*
Acquittal	28	3	1	32
Dismissal of the Case	6	0	0	6
Suspension of the pronouncement of the verdict	9	3	0	12
Decision of non-prosecution	23	8	0	31
Trial is pending	57	65	7	129
General Total as of 11.09.2013	**123**	**79**	**8**	**210**

The number of personnel against whom judicial proceedings have been conducted under articles 94 and 95 of the Penal Code (article 243 of former penal code) on the crime of torture

	2011	*2012*	*Total*
Decision of non-prosecution	4	1	5
Trial is pending	12	23	35
General Total as of 11.09.2013	**16**	**24**	**40**

The number of the personnel against whom administrative proceedings have been conducted under articles 94 and 95 of the Penal Code (article 243 of former penal code) on the crime of torture

	2011	*2012*	*2013*	*Total*
No grounds for imposing any penalty	16	9	0	25
File discontinued	73	30	2	105
Dismissal from post	0	3	0	3
Investigation pending	0	3	0	3
General Total as of 11.09.2013	**89**	**45**	**2**	**136**

275. The table regarding the personnel of General Directorate of Prisons and Detention Centers of the Ministry of Justice against whom procedural and administrative proceedings were initiated under the allegations of torture and ill-treatment is provided in annex 2.

Question 26: Please indicate measures ensuring that all public officials accused in prima facie cases of torture or ill-treatment are suspended or reassigned during the investigation, and provide information on any cases during the reporting period in which this occurred.

276. Four personnel were laid off from job within the Gendarmerie General Command between 01 January 2009 and 31 March 2014 on the grounds that they had committed the crime of "torture".

Question 27: In light of the Committee's previous concluding observations (para. 8), please provide information on measures taken by the State party to establish impartial and independent mechanisms to ensure prompt, effective, and independent investigations into all allegations of torture and ill-treatment. Noting the State party's assertion in its follow-up submission that pursuant to Circular No. 9 of the Ministry of Justice, investigations concerning allegations of torture and ill-treatment by law enforcement officers should be conducted by the Public Prosecutor and not by law enforcement officers, but in light of the concern expressed by the Committee in its previous concluding observations (para. 8) that despite the existence of this Circular, law enforcement officers commonly conduct such investigations, please provide data on the number of investigations into torture or ill-treatment alleged to have been perpetrated by police carried out by the Public Prosecutor during the reporting period and indicate the outcome of all such investigations. Please provide information on the number of investigating prosecutors and judicial police in the State party, disaggregated by location. Please also comment on the status of the effort to establish an independent police complaints mechanism.

277. New mechanisms have been established during the reporting period (the Turkish Human Rights Institution and the Ombudsman) which are mandated with reviewing and investigating complaints and allegations of human rights violations including claims of torture and ill-treatment. Detailed information on these institutions is given under the replies to questions 10 and 37.

278. The Human Rights Inquiry Commission of the TGNA also provides important assistance on the investigation of alleged cases of ill-treatment by the police officers and other security forces.

279. With a view to ensuring independent and civilian review of the security forces, the "Draft Law on the Establishment of Law Enforcement Monitoring Commission and Amendment of Certain Laws" was submitted to the Parliament in 2012. The draft law aims to reassure public and law enforcement officials' confidence in the law enforcement complaint system and to bring the current legal framework of the registry and investigation mechanisms regarding complaints about law enforcement officials in line with the EU standards. A more efficient complaint system will be established without creating a burden on bureaucracy. The draft law envisages the establishment of the Law Enforcement Monitoring Commission. The Commission is envisaged to perform the duties specified in the law independently under its powers and responsibilities.

Question 28: Noting the State party's follow-up response, asserting that implementation on judgments of the European Court of Human Rights is a priority, please indicate whether the State party has carried out independent and impartial investigations into allegations of torture or ill-treatment and prosecuted the perpetrators following judgments of the European Court of Human Rights, including in the cases of Uzer *v.* Turkey, Yazgul Yilmaz *v.* Turkey, Ebcin *v.* Turkey, *and* Sacilik and Others *v.* Turkey.

280. Despite some of the judgments of the ECtHR which establish that the criminal judgment has violated the Convention, reopening of the proceedings (a new trial) could not be made available previously as a domestic remedy due to the period of limitation prescribed to that effect in the national laws.

281. By the amendment made to the Article 311/2 of the Turkish Code of Criminal Procedures, the statute of limitation for reopening the legal proceedings upon final judgments of the ECtHR which are executed before the Committee of Ministers of the Council of Europe as of 15 June 2012 was annulled. Therefore, a new trial before national courts may be filed by the applicants within three months from the effective date of the said Article.

Article 14

Question 29: With reference to the Committee's previous concluding observations (para. 14), please provide data on redress obtained by victims of torture or ill-treatment or their heirs during the reporting period. This information should include the number of claims made, the number granted, the redress awarded (including amount of compensation and form of rehabilitation where applicable), and the redress actually provided to claimants.

282. Since 2010, 31 actions have been brought against the Ministry of the Interior with the allegations of torture and ill-treatment, and in the two cases that have been closed, a compensation of 16,906.12 TL was paid.

283. A compensation of approximately 422,500 TL was paid as a result of four actions for pecuniary/non-pecuniary damages brought against the Gendarmerie General Command between 01 January 2009 and 31 March 2014 for allegations of torture and ill-treatment.

Question 30: With reference to the Committee's previous concluding observations (para. 14), and particularly its recommendation that the State party consider developing a specific programme of assistance for victims of torture and ill-treatment, please provide information on the kinds of rehabilitation programmes available for victims of torture, ill-treatment, trafficking and domestic and other sexual violence, including medical and psychological assistance, as well as the accessibility of such programmes.

Please provide information on the level of collaboration with specialized non-governmental organizations in this area, and indicate whether the Government provides financial and/or other support for their effective implementation.

284. Within the framework of efforts of the fight against human trafficking, psychological support and rehabilitation programmes are available for the identified victims.

285. By way of circulars sent to the governorships, the authorities have been instructed to identify human trafficking victims and to provide all possible medical care and psychological rehabilitation support for the victims. The victims identified within this context shall not be deported but allowed initially to reside temporarily in Turkey for one month if they wish so.

286. The Anti-Human Trafficking Manual which includes issues on how female victims shall be approached, has been delivered to every relevant unit of the Security General Directorate.

287. In all proceedings to be carried out with respect to female victims:

- Female personnel wearing plain clothes are appointed;
- In the event that actions such as confrontation, suspect identification or on-site investigation are required in the course of investigation, the necessary technical arrangements such as one-way-mirror-room, video footage and closed vehicles shall be made ready so as to avoid the victims' sharing the same space with traffickers and relevant persons;
- In the event that juvenile victims are identified, special precautions shall be taken to respect the interests of the minor during every proceeding;
- In the event that juvenile victims are identified, the victim shall firstly be placed under protection by provincial Security Directorates, and then he/she be handed to the Social Services and Child Protection Agency and a guardian shall be appointed for him/her.

288. Within the framework of international practices and recommendations regarding the treatment and rehabilitation of victims, the prosecution of the defendants and granting residence permits for the victims, the following new measures are being taken:

- Temporary residence permits of up to 6 months are granted to foreign nationals identified as victims of human trafficking, with a view to securing their testimony, ensuring cooperation with the police, treating the state of trauma, and providing medical and psychological support for them (this permission includes the opportunity to work);
- The trial of the defendants and the treatment of the victims are followed and if the need arises, the residence permits are extended in accordance with the trial and treatment procedure.

289. The following measures are being taken in cases where the victims will be safely returned to their country voluntarily or to another province during the investigation:

- Precautions shall be taken in order to prevent the victims' identification and disclosure by others;
- In the course of their return to their country of origin, exit and document check procedures at border crossings shall be completed based on documents without taking the said persons to passport control booths;

- If disclosed, victims under fear as a result of the pressure and coercion they had faced, might refrain from giving testimony and providing information, as they would be concerned that the traffickers may find and harm them, which renders it difficult for the authorities to carry out healthy investigations and to identify the criminals. Having regard to that fact, measures are being taken to prevent the disclosure of victims during the proceedings carried out in the course of investigations and other proceedings during their stay in Turkey.

290. The exit procedure in respect of human trafficking victims who are psychologically fit and wish to return to their countries are completed gratis and without fines and no temporary entry ban are imposed on them.

291. Concerning cooperation with NGOs, the General Directorate of Security has signed bilateral Cooperation Protocols with Turkish NGOs working in fields such as violence against women, contagious diseases and human trafficking. Protocols were signed with the Human Resource Development Foundation (IKGV) in 2003 and with the Women's Solidarity Foundation (KDV) in 2005.

292. A shelter for victims of human trafficking was opened on 23 August 2004 with the cooperation of the IKGV and the Metropolitan Municipality of Istanbul, also thanks to contributions by the relevant Ministries, institutions and the International Organization for Migration. The facility is currently run by the IKGV. Coordination and application guidelines have been put in effect to ensure the confidentiality of the shelter and that the transfer of the victims is carried out in a coordinated, fast and safe manner, which will avoid the disclosure of the residents.

293. Similarly, as a result of the cooperation protocol signed in 2005, a shelter for victims of human trafficking has been opened in Ankara with the cooperation of the Women's Solidarity Foundation and the Metropolitan Municipality of Ankara and has been offering services since 1 November 2005.

294. In cooperation with Antalya Family Consultants Association, which takes part in identification of victims and prevention activities, a station type accommodation house was established in Antalya.

295. The shelter by the Human Resource Development Foundation has offered services for 502 victims of human trafficking since 2004, the shelter by the Women's Solidarity Foundation for 229 victims since 2005, and the shelter by the Association of Antalya Family Counsellors for 6 victims so far.

Question 31: Please clarify whether the right to redress for victims of torture and ill-treatment is conditional upon the conviction of the perpetrator in a criminal proceeding. If not, please indicate how many victims of torture and ill-treatment have been awarded redress in cases where the perpetrator was not convicted by a court, and provide other relevant case information. Please indicate if victims of torture or ill-treatment can obtain compensation if the perpetrator has been subjected to a disciplinary, but not a criminal, penalty.

296. Under Article 129/5 of the Turkish Constitution, actions for damages arising from faults committed by public servants and other public employees in the exercise of their duties shall be brought only against the administration in accordance with the procedure and conditions prescribed by law, and subject to recourse to the relevant public servants and employees.

297. Actions for damages brought by victims of torture and ill-treatment against the administration are heard before the administrative courts.

298. Administrative authorities and other judicial organs are bound by the decisions of acquittal and/or conviction given by the criminal courts on merits; decisions of acquittal given due to lack of evidence and decisions of non-prosecution given by the public prosecutors' offices do not have a binding nature. In such cases, an administrative jurisdiction court is obliged to examine whether the administration is legally responsible by taking into account the case file and the principles and procedures of the administrative law.

299. Under Article 13 of the Code of Administrative Procedure No. 2577, the persons whose rights have been violated by an administrative action must apply to the relevant administration for the rectification of the situation within a year from the notification or the date they learn the action by another way and in any case within five years from the action, before bringing a lawsuit. A suit may be brought within the action time limits running from the day following the notification of this decision, if the application is wholly or partly refused, and from the end of sixty-day period if no response is given within sixty days. Administrative courts evaluate the complainant's demand and makes a case-by-case examination on whether the administration has any neglect of duty due to public officials' negligence or not performing their duties.

300. For instance, with its judgment dated 28.09.2010 and No. 2007/5028, 10th Chamber of Council of State stated that the victims of torture may be entitled to the right to compensation regarding a case in which the perpetrator's guilt was not upheld by the Court of Cassation on the grounds that the administration has neglect of duty due to public officials' gross negligence and not performing their duties.

301. Similarly, with its judgment dated 06.02.2009 and No. 2006/1212, 10th Chamber of Council of State upheld the domestic administrative court's decision that the administration should compensate the damage arising from the administration's failure in conducting public services in a manner to protect security of life and property of the citizens on one hand and malfunctioning of public services as a result of not duly inspecting public officials on the other.

Article 16

Question 32: With reference to the Committee's previous concluding observations (para. 10), please indicate measures taken to promptly, effectively and impartially investigate allegations of extrajudicial killings by security and law enforcement officials during the reporting period and ensure the perpetrators are prosecuted and punished appropriately. Please indicate all cases investigated, the investigation authority, whether prosecution and conviction resulted and any penalties imposed. In particular, please provide information on:

(a) The December 2011 killing of 34 civilians near Uludere by military plane;

(b) Incidents of extrajudicial killings in Kiziltepe and Şemdinli allegedly perpetrated by the security forces in 2004 and 2005.

302. Uludere Chief Public Prosecutor's Office initiated an investigation on 19 January 2012 and the file was forwarded to Diyarbakır Chief Public Prosecutor's Office upon its decision of non-jurisdiction.

303. On 11 June 2013, Diyarbakır Chief Public Prosecutor's Office gave a decision of non-jurisdiction and the file was forwarded to General Staff Military Prosecutor's Office. As a result of the investigation conducted by General Staff Military Prosecutor's Office, a decision of non-prosecution was given by Military Prosecutor's Office on 6 January 2014. The decision was objected to by legal representatives of some of the victims. The objections will be examined by the Authorized Military Court.

304. The Human Rights Inquiry Commission of the TGNA founded a sub-commission on 9 January 2012 to investigate death incidents occurred following an air operation made on Iraq border in the Uludere district of Şırnak.

305. The sub-commission made investigations in Şırnak on 05-06.02.2012, by helicopters in the area where the incident took place and held interviews with the ones who have witnessed the event, the relatives of the deceased, Şırnak Governor, Uludere District Governor and other local authorities and relevant military authorities. Information and documents were obtained from the General Staff, Ministry of the Interior - Civil Supervisory Board Department, Telecommunications Communication Presidency, Office of Şırnak Governor, Ministry of Justice, Diyarbakır Chief Public Prosecutor's Office, National Intelligence Agency, 2nd Army Command, 23rd Border Division Command and 22nd Gendarmerie Border Brigade Command, the images caught by Unmanned Air Vehicle (UAV) were monitored and technical reports were obtained from the experts.

306. The report of the sub-commission concluded that there was not any evidence indicating that it was an intentional incident; however, there was a lack of communication between intelligence units and the center of armed forces and its local units. As there is not any evidence, responsible individuals could not be identified, yet it is stated that legally responsible persons have to be identified by judicial authorities. The said report is available to the public through the website of the Commission.

307. Concerning the incident in Şemdinli, Şemdinli Chief Public Prosecutor's Office initiated an investigation on 9 November 2005 as regards the hand grenade attack on Umut Bookshop in Şemdinli. On 22 December 2005 a summary of proceedings was sent to Van Chief Public Prosecutor's Office, a criminal case was brought before Van 3rd Assize Court where the suspects A.K., V.A. and Ö.İ. were sentenced to imprisonment for being a member of an organisation founded to commit crime under Article 220 of TPC. The decision was appealed by the defendants and their representatives and the file was forwarded to Chief Public Prosecutor's Office of Court of Cassation.

308. Concerning the incident in Kızıltepe, as a result of the operation in Kızıltepe district of Mardin on 20.11.2004 against the members of PKK/KONGRA-GEL terrorist organisation, Ahmet KAYMAZ and Uğur KAYMAZ were captured dead and an action was brought against 4 officials due to the crime of "committing unidentified murders by exceeding the self-defence limit". In consequence of the said trial, a decision of acquittal was given regarding the suspects by Eskişehir Assize Court on 18.04.2007, stating that there are no grounds for imposing any penalty.

Question 33: Please provide information on the measures taken by the State party to ensure that all human rights defenders, including members of human rights organizations, journalists, trade union members and lesbian, gay, bisexual and transgender (LGBT) activists, are protected from harassment, intimidation and violence, particularly by public officials, as a result of their activities. Please also describe any legislation recognizing such defenders or efforts to revise legislation allegedly used to harass human rights defenders, including the Anti-Terrorism Law.

In particular, please comment on:

(a) The arrest and imprisonment of numerous journalists in Turkey, and particularly the use of Anti-Terror Act against journalists. Please indicate the number of journalists held in remand detention, the number currently on trial, and the number serving prison sentences, and the grounds on which they were deprived of their liberty. Please comment on the cases of Ahmet Şık and Nedim Şener, who were allegedly charged with crimes related to their investigation of abuse by

officials. Please describe measures taken to respond to death threats against journalists Baskın Orand and Etyen Mahcupyan;

(b) The arrest in October 2011 of Kemal Aydin, Selahattin Tekin, Cemal Bektas and Nahide Ormani, who investigated cases of disappearances and extrajudicial executions whose cases were raised with the State party by the Chair-Rapporteur of the Working Group on Arbitrary Detention; the Chair-Rapporteur of the Working Group on Enforced or Involuntary Disappearances; and the Special Rapporteur on the situation of human rights defenders;

(c) The June 2012 arrest of human rights defender and trade union member Osman İşçi and over 50 other trade union members on charges of "members in an illegal organization" and related offences;

(d) Allegations of harassment of staff of LGBT organizations, including the October 2011 conviction on charges including resisting arrest of three transgender human rights defenders from the group Pembe Hayat, who alleged that they were arbitrarily detained on the basis of their transgender status. Please describe measures taken to investigate and prosecute violence against LGBT persons during the reporting period, and any measures to eliminate judicial recognition of "undue provocation" as an extenuating circumstance in cases of violence against LGBT persons;

(e) Any further investigations, following the 2011 conviction of the immediate perpetrators, into the possible involvement of State agents in the 2007 murder of journalist Hrant Dink.

309. Ahmet Şık and Nedim Şener were taken into custody on 03.03.2011 as part of investigation No. 2011/1657. On 05.03.2011 they were detained following their testimony in Chief Public Prosecutor's Office which demanded that the persons in question be punished under Article 314/2 of TPC and Article 5 of Anti-Terror Law and Articles 53 and 58/9 be imposed on them. On 12.03.2012, they were released by the decision of İstanbul 16th Assize Court.

310. Baskın Oran received death threats on 02.06.2011 and 11.03.2012, Etyen Mahcupyan received death threats on 02.06.2011. Perpetrators were identified in these two cases and following their testimonies (one of them taken by the Chief Public Prosecutor's Office and the other by the Security Directorate), they were released. There is not any protection measure decision as regards the above-mentioned individuals.

311. Persons referred to as "journalists in prison" have been charged with serious crimes – such as being a member of, or supporting an illegal or armed terrorist organization and their prosecutions are not related to their work as journalists or members of media organizations.

312. Facts concerning the list of "24 Jailed Journalists" issued by the Platform for Solidarity with Imprisoned Journalists ("the PSIJ") on 9 June 2014 is presented below:

- Proceedings against 17 persons had been concluded, and judgments of conviction had been rendered in respect of them;
- 2 persons were detained pending trial;
- 5 persons had been released on various dates.

313. The crimes which they have been accused/convicted of are as follows:

- Unauthorized possession and transfer of dangerous materials; throwing Molotov cocktails; forgery; attempting to overthrow the Constitutional order; making

arrangements for the admission of minors to a terrorist organisation; purchasing or carrying or possessing authorized firearms and bullets thereto belonging;

- Membership of an armed terrorist organisation;
- Founding, leading/making propaganda about an illegal armed terrorist organisation;
- Attempting to change the Constitutional order by force;
- Carrying out espionage activities.

314. Neither of the 2 persons detained pending trial has a "press card".

315. Neither of them has been prosecuted on account of journalism activities.

316. Within the context of an operation initiated by İstanbul Security Directorate on 04.10.2011 against PKK/KCK terrorist organization, Cemal Bektaş was taken into custody on 11.10.2011 and arrested by the judicial authorities. He was released on 07.06.2013 by the decision of 15th Assize Court. With the same operation, Salahattin Tekin and Kemal Aydın were taken into custody on 04.10.2011 and arrested on the same day by the judicial authorities. Salahattin Tekin was released on 21.12.2012 by the decision of 15th Assize Court.

317. No information has been obtained in the records regarding Nahide Ormani (Orman). It is considered that the said person's name could be Nahide Eren (Ormanlı) who is registered in the Derebaşı village of Silopi district of Şırnak province, daughter of Esat-Vesile, and was born in 1963. In this context, information regarding Nahide Eren is stated below.

318. On 15.05.2011 a group of 200 people who were protesting the armed clash between Turkish Armed Forces and members of terrorist organization in Uludere district of Şırnak on 12.05.2011 attacked the security forces and their vehicles. The violent group was intervened with pressurized water after they were warned to disperse. As a result of the examinations of photographs and camera recordings taken by the law enforcement officials during the events, Nahide Eren was identified in the group that attacked the security forces.

319. Within the context of operations against PKK/KONGRA-GEL terrorist organization, and as a consequence of a planned operation made in Silopi district against the individuals who were involved in illegal demonstrations and attacks against security forces with stones and Molotov cocktails,

320. Nahide Eren was caught at her home on 11.10.2011 upon a search made pursuant to the search warrant of Silopi Chief Public Prosecutor's Office dated 10.10.2011 and taken into custody. Selahattin Ormanlı, a member of her family, was informed in the course of the search made at her home, and she was allowed to meet her representative while she was kept in custody.

321. She was arrested by the decision of Silopi Magistrates' Court on 12.10.2011, which she was brought before with a claim of arrest under Articles 314/2 and 265/1 of the TPC and she was handed in Mardin E Type Closed Penal Institution on the same day.

322. On 25.06.2012, Osman Işçi was taken into custody in the operation made by Ankara Security Directorate against 53 individuals on the grounds that they were involved in "Social Area Structuring of PKK/KCK terrorist organization". He and another 28 persons were arrested and 25 persons were released by the judicial authorities. Osman İşçi was released on 10.04.2013 by the decision of Ankara 13th Assize Court.

323. Within the general framework of the principle of non-discrimination in the Turkish legislation, the rights of the Lesbian, Gay, Bisexual and Transgender (LGBT) persons are protected and guaranteed by law. Perpetrators of any criminal act including all types of hate

crimes are brought to justice as in any other democratic State governed by the rule of law. LGBT persons, as all other individuals, are free to lodge complaints against police officers. They can do so concerning officers that they accuse of harassing them based on their sexual orientation or gender identity. As to the allegation concerning three members of Pembe Hayat (Pink Life), the individuals in question were not subjected to any discrimination as a result of the criminal proceedings initiated against them. On 19 June 2010 the police received a denunciation about the three persons, by which it was informed that they were taking people into their car for prostitution. The police went to the place of incident for the procedure under the Law on Misdemeanours. The three persons in question did not want to go to the police station, physically resisted and insulted the police, and as a result a police officer was injured and a police wireless was broken. The criminal proceedings were not initiated due to their sexual orientation or gender identity, but due to their resistance to the officer on duty, insult, and damage public property.

324. Concerning the murder of Hrant Dink:

- Judicial investigation is in progress by the İstanbul Chief Public Prosecutor's Office by the decision of Chief Public Prosecutor's Office;
- The investigation file regarding the suspects M.Z., officials of Trabzon Security Directorate and Trabzon Gendarmerie Command was forwarded to Trabzon Chief Public Prosecutor's Office, and a criminal case was brought before Trabzon 2nd Magistrates' Court and it was ruled that the suspects A.Ö., M.Y., V.Ş., O.Ş, H.Y and H.Ö.Ü. be punished for committing the crime of neglect of duty and G.G. and Ö.A. be acquitted from the alleged crime;
- A decision of non-prosecution was given as regards the suspects C.C., A.İ.G, B.K., İ.P, İ.Ş.E., V.A., B.T and Ö.Ö. by Fatih Chief Public Prosecutor's Office (Office for Offences Committed by Public Officials) pursuant to the decision of District Administrative Court and with the decision No. 2008/9680 dated 22.10.2008M;
- The investigation was extended in accordance with the petitions submitted by the complainant and legal representative of victims, the decision given by the Supreme Court's 9th Penal Chamber quashing the decision given by İstanbul 14th Assize Court and the evidence, witness statements, HTS reports gathered by Chief Public Prosecutor's Office,
- Former statements taken within the context of the investigation are re-evaluated, evidence is gathered and statements are taken regarding missing information, letters are exchanged in this regard, HTS reports are demanded once more.

325. In the meantime, the Constitutional Court has considered the individual application by Dink's family on this issue and ruled that the investigation in the Hrant Dink case has violated the principle of effective investigation.

Question 34: Please provide data on the number of persons imprisoned or facing trial for refusal to perform military service, and describe actions the State party is taking to grant a civilian alternative to military service in view of the findings of the European Court of Human Rights in Salil *v.* Turkey *and* Savada *v.* Turkey.

326. Article 72 of the Turkish Constitution entitled "National Service" states: "National service is the right and duty of every Turk. The manner in which this service shall be performed, or considered as performed, either in the armed forces or in public service, shall be regulated by law". Within this context, compulsory military service was adopted for male Turkish citizens with Article V of Law No. 1111 which reads as: "Every male Turkish citizen is obliged to perform his military service in accordance with this Law".

327. There is not a special provision in the Turkish legislation for persons who do not fulfill one or more obligations stemming from the features of military service with the intention of not performing military service (such as avoidance of roll calls, not joining the unit, joining the unit late, refusing to wear uniform or recruitment).

328. At present, there is no work regarding a civilian alternative for military service.

Question 35: In light of the Committee's previous recommendations (para. 25), please provide information on the measures taken to effectively investigate and prosecute alleged incidents of abuse of army conscripts by fellow soldiers during the reporting period. Please comment on any investigation into the death of army conscript Ugur Kantar in October 2011. Please also provide data on non-combat deaths recorded in the military during the reporting period, as well as information on cause of death.

329. Regarding the death of Uğur Kantar, a criminal case was initiated against the suspects Infantrymen A.A and Infantry Sergeant F.K with the allegation that they committed the crime of aggravated torture and intentional bodily injury, against the suspect Infantryman R.T. with the allegation that he committed the crime of intentional bodily injury, against the suspects Infantrymen S.Ö, Ö.B. and A.Y with the allegation that they committed the crime of misconduct and against the suspect Tank Master Sergeant A.Ş. with the allegation that he committed the crime of misconduct by negligence.

330. The suspect R.T's trial is pending before Silifke 1st Assize Court, and the suspects Infantryman A.A and Infantry Sergeant F.K are detained on remand in Silifke M Type Closed Penitentiary Institution. The other suspects' trials are also pending.

331. During the trial held on 21 March 2014, the detained suspects Infantryman A.A and Infantry Sergeant F.K were released; however, upon the objection raised, Adana 6th Mechanized Infantry Division Command Military Court decided on 11 April 2014 that these two suspects be detained and a warrant of arrest be issued against them. The case is pending.

Other Issues

Question 36: Please provide information on how the State party has ensured that all measures taken to respond to threats of terrorism comply with its obligations under the Convention. In this regard, please comment on actions taken to implement the recommendations of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, including to amend and narrow the definition of terrorism in the Anti-Terror Act.

332. "The Law on Amendments in the Turkish Penal Code and Some Laws within the Meaning of Human Rights and Freedom of Expression and Media", known as "4th Judicial Reform Package" was adopted by the Parliament on 11 April 2013.

333. An important element of the package is to incorporate the principal parameters of the ECtHR case law in the field of freedom of expression into the Penal Code.

334. With the amendments, the scope of the offence of making propaganda on behalf of terrorist organisations is limited to the cases of making propaganda for the methods of terrorist organisations constituting coercion, violence or threats through legitimising or praising or encouraging the use of these methods. Similarly, the scope of the offence of printing and publishing the declarations and statements of terrorist organizations is limited to cases of printing and publishing the declarations and statements of terrorist organisations

constituting coercion, violence or threats through legitimising or praising or encouraging the use of these methods. Moreover, the maximum limit of the punishment to be inflicted on the editors-in-chief who have not participated in the perpetration of the crime has been reduced by one half.

335. Hence, the distinction between the "promotion" or "propaganda" of terrorist organisations and "membership to a terrorist organisation" as well as the distinction between "incitement to violence" and the "expression of non-violent ideas" is ensured in full compliance with international standards.

General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention

Question 37: Please provide detailed information on the relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level, that have occurred since the previous periodic report, including any relevant jurisprudential decisions.

336. Turkey achieved significant progress in the reporting period with regard to institutionalization in the field of human rights and important institutions were established in order to provide institutional safeguards for human rights. A comprehensive consultation process was carried out with the participation of relevant parties during the preparation of the laws on the establishment of these institutions.

337. The Law on the establishment of Turkish Human Rights Institution entered into force on 30 June 2012 and the process of establishing the Turkish Human Rights Institution, in compliance with the Paris Principles, was initiated. The elections of the members of the Human Rights Board, the decision-making body of the institution, were completed as of 2012 September. It is stipulated in this Law that the institution would be independent in its authorities and while carrying out its duties. This institution is responsible for carrying out work on the protection and enhancement of human rights, and in this framework, for undertaking investigations and research, preparing reports, submitting opinions and recommendations, conducting activities for information, awareness-raising and training and investigating allegations of human rights violations.

338. The Turkish Human Rights Institution is a public legal entity which has administrative and financial autonomy. It is independent regarding its duties and authorities; the Institution may not be given orders or instructions, recommendations or opinions regarding its duties. Due to administrative and financial autonomy, the Institution has its own budget, personnel and property and it is authorized to make its own administrative arrangements regarding matters under its responsibility.

339. The Turkish Human Rights Institution is given a wide mandate in the protection and promotion of human rights. It was also designated as the national preventive mechanism to fulfil the duties and use the authorities laid down in the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

340. The Law on the establishment of Ombudsman Institution entered into force on 29 June 2012. With this Law, the Ombudsman Institution was established under the Parliament as a public legal entity with a special budget. The Ombudsman is mandated with reviewing and investigating complaints concerning the functioning of the administration, that is to say all kinds of acts and transactions, attitudes and actions of the administration, regarding their compliance with the rule of law and fairness, within the context of an understanding of justice based on human rights. The institution is also entrusted with making recommendations to the administration. In accordance with the principle of independence,

the Chief Ombudsman and Ombudsmen may not be given orders or instructions by any authority, body, office or person regarding their duties.

341. The institution began to receive complaints on 29 March 2013. Lodging an application is free of charge and applications can be submitted electronically as well as through governorates and district governorates in provinces and districts.

342. The establishment of an Ombudsman system in Turkey is one of the most important steps taken for accountability, fairness and transparency of the public administration. The Ombudsman Institution will improve the quality and effectiveness of public services, by addressing fairly, speedily and free of charge the complaints of citizens regarding public services, in accordance with the law. Investigation allegations of all forms of public officials fall within the scope of the mandate of the Ombudsman.

343. The Constitutional amendments of 2010 introduced the right of individual application to the Constitutional Court. Since 23 September 2012, individual applications can be lodged with the Constitutional Court. It has been stipulated in Article 148 of the Constitution that any person may apply to the Constitutional Court on the grounds that one of the fundamental rights and freedoms within the scope of the European Convention on Human Rights which are guaranteed by the Constitution has been violated by public authorities. In order to make an application, the domestic legal remedies must be exhausted.

344. The Constitutional Court shall give the final ruling on whether the applicant's fundamental rights have been violated, and in case it finds a violation, it shall declare what needs to be done to eliminate the violation and its consequences, including the payment of compensation.

345. The European Court of Human Rights ruled in its decision of 14 May 2013 that the remedy of individual application which grants individuals the right to apply to the Constitutional Court is a "domestic remedy that shall be exhausted before making applications to ECtHR" (Hasan Uzun *v.* Turkey, Application No. 10755/13).

Question 38: Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level, that have occurred since the previous periodic report, including on any national human rights plans or programmes, and the resources allocated thereto, their means, objectives and results.

346. The Action Plan on Prevention of European Convention on Human Rights Violations was adopted by the Council of Ministers decision which was published in the Official Gazette dated 1 March 2014. A high-level conference and workshop on "Case-law of the European Court of Human Rights Concerning Turkey, Difficulties and Suggestions for Solutions " was held by the Ministry of Justice in Ankara between 15 and 17 November 2011, with the representatives of all institutions and with the participation of experts from the ECtHR and the Council of Europe. In the workshop, systematic problems stemming from implementation that result in violations of human rights and solution suggestions were discussed. This Action Plan, taking into account the outcome of the said workshop, was prepared with a view to eliminating the problems resulting in violation judgments rendered by the ECtHR.

347. The Action Plan determines the measures to be taken, the activities and arrangements planned to be carried out on the basis of a planned schedule and the institutions in charge of these tasks are identified. Following the preparation of the draft Action Plan, opinions and recommendations of all relevant institutions have been received and considered duly, and the Action Plan was finalized.

348. The Action Plan consists of 14 main aims and 46 targets under these purposes. Actions to be carried out for reaching the targets have been explained separately under each target. Furthermore, short, medium and long-term periods have been set forth in order that the aims stated in the plan could be reached.

349. The follow-up process for the execution of activities set forth in the Action Plan by the responsible institutions in accordance with the timetable will be monitored by the Ministry of Justice. In the course of this follow-up process, responsible institutions shall submit reports to the said Ministry every six months. Consequently, an annual report will be submitted to the Prime Ministry about the implementation of the Action Plan.

350. The Action Plan has been prepared with the most extensive institutional participation and agreement in order that violations of the European Convention on Human Rights could be prevented, and includes the steps to be taken for the solution of problems with an integrated approach. In this manner, centralized execution of the steps and precautions in coordination with the Ministry of Justice will ensure that these precautions be result-oriented and effective.

351. Further protecting and promoting human rights at the national level is one of the strategic targets in the 2014-2018 Strategic Plan of the Directorate General of Security. The Plan is in the process of adoption. The activities to be conducted have been spread over a 5-year period with targeted timeframes. The budget necessary for the planned activities has been included in the strategic plan. The said target is going to be followed-up with the activity reports and performance program prepared annually.

352. Within the context of the protocol made between the Ministry of National Defence and the Ministry of Justice in 2007 as regards the training of the personnel in charge in military prisons and detention centers, applied vocational training is given to the Ministry of Justice Prisons and Detention centers personnel in Ankara Training Center Directorate and between 2007 and 2013, 406 personnel in total who work in military prisons and detention centers joined these trainings and courses.

Question 39: Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 2010, including the necessary statistical data, as well as on any events that occurred in the State party and are relevant under the Convention.

353. In terms of improvements in technical infrastructure within the Directorate General of Security, as of 2007, digital image and sound recording systems have been set up in provincial security directorates anti-terror branch offices.

354. Within the context of the project, in 2010, 2011 and 2012, a total number of 80 digital image and sound recording systems were set up, 37 of which were in detention rooms and 43 of which are in interrogation rooms in 30 provincial security directorate anti-terror branch offices.

355. A further 28 digital image and sound recording systems are planned to be set up, 18 of which will be in detention rooms and 10 of which will be in interrogation rooms in 10 provincial security directorate anti-terror branch offices.